



Teaching For Success®

Quick Answers

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Q: What Are the Dos and Don'ts under the Copyright Law?

A: Copyright Basics for Faculty

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As internet research usage continues to skyrocket, questions and inconsistencies over copyright code issues abound.

Recent case

One of the well-known and flagrant violations of copyright law occurred in Kansas City, and included a group of biology students now known as the 'Piper 28.' It was reported that the case was born when a Piper High School biology teacher assigned a project on the subject of leaf identification; the grade was worth 50 percent of the final course grade.

As the instructor started the grading process, she began by using an Internet program, a copyright checker, to check for originality. She discovered that 28 of her students had copied at least some of their work from Web sites and known publications, also failing to give proper credit.

The resultant protest over falling GPA's involved the students, their instructor, administrators, parents and the school board. The story mushroomed into the national media and cost the teacher and at least one administrator their jobs. This example illustrates how even copyright violations at the individual level can be very costly and complex issues for all involved.

Internet authors, including college instructors and students alike, report citation and copyright issues as top plagues, opening ethical questions at every turn. From research to personal E-mail, popular dilemmas including invisible authorship, absent page locators or contact information add fear of system overload.

Lax patterns of data and fact usage are commonplace, as Web pages keep on coming and going over time. Most campuses now have copyright statements linked to their home pages, informing students and Web users of their rights when using their Internet systems. How do we cool this alphabet soup?

Copyright Defined

The first step toward success is to know the beast! Copyright law protects the author, or owner, of any creative work. Everyone should be concerned about copyright rules, but what exactly is a copyright?

In the United States, copyright law automatically protects anything created after April 1, 1989, even if the work has not been legally registered. The definition of “creative work” has recently been expanded to include the fields of architecture, software and Web design, graphic arts, movies and musical recordings.

Artistic creations such as fashion design, drawing, painting, carving and crafting are also considered to be creative works. A creative work also includes anything you draw, write, photograph, sculpt or put on tape or CD/DVD. It cannot be a replication or repeat of fact, but must be an original work.

The original author can copyright a scholarly reorganization of facts. Thoughts in your head, heart or your dreams must be put on paper (or CD) to be protected by copyright rules of law.

There are only two quite narrow and specific exceptions to the rules of copyright definition and protection. One exception is design fonts used in typing, printing or typesetting onto paper. The second exception from copyright protection is anything at all created or printed by the U.S. government.

Myths Debunked

Myths abound, the most common being ‘if I don’t charge for my work, there is no copyright mistake.’ This is false, and money exchanges make no difference in the law. There can be large monetary damages awarded in court, though, if you are found guilty of giving away someone else’s creative work. The only exception is in the case of the personal copying of music.

The second most popular myth in copyright law concerns fair use and common domain policies. Public domain materials are any works that are not protected by copyright law. For published works that were copyright registered before January 1, 1978, they become part of the public domain 95 years after their registration date.

Anything that is inherently not copyright material, such as blank forms, ideas, historical facts, names and titles, just to name a few, are already considered to be part of the public domain.

Confusion on the Internet often arises with the false assumption that anything posted to a Usenet automatically grants permission to copy. That is not true, and permission must be granted.

Moreover, using the Internet as an oversized copy machine is dangerous. In general, any work done before January 1, 1923 is considered available within the public domain, and permission to use and/or copy is automatically assumed. Any author may grant their work to the public domain, thus removing it from copyright protection.

Fair Use

Fair use policy is most relevant to college teaching, and it helps instructors determine exactly what materials they can copy and use without permission. Resources used in teaching, research and news reporting or critique are considered fair use materials in all cases, and do not require permission for usage.

In general, don’t use more information than is necessary, and don’t use it in a way that will earn money or harm the future marketability of the original work. Fair use rules stop you from exploiting the work of other people; quantity and quality of usage are the keys.

Important clarification tips to remember:

- Derivative works belong only to their original author, unless editorial transfers have occurred prior to publication.
- Don't confuse copyright with trademark. You cannot use someone else's logo in any way that devalues it.
- Copyright violations worth over \$2,500 are a felony, so be informed. Remember that technology is still ahead, as the law remains focused on surveillance and jurisdictional issues at this time. Things are quickly changing, though, with penalties for computer crimes escalating.
- It is up to the original author to release their creative works for other uses. You must ask them, preferably in writing, for permission to use their work within your own.
- E-mail is considered to be citable, if you wrote it. If it is E-mail from another person, it is private, and you must obtain consent from the writer to use it in your own work. E-mail is not public domain information, as many instructors wrongly assume.

Copyright Law

Current laws are changing almost as fast as the technology, moving mostly from the civil to the criminal arenas. The pressures involved with technology changes and regulatory impact keep Internet rules confusing. Copyright law is defined and author's rights are protected and administered under Article I, Section 8 of the U.S. Constitution. Under this mandate exists the U.S. Copyright Act (17 U.S.C. §§101-810).

It gives the original author exclusive rights to ownership and licensure of their original creative work. These laws are adjudicated and monitored by the Copyright Office at the Library of Congress in Washington, D.C. Copies of these laws are widely available online.

The U.S. Copyright Office Home Page is located at (<http://lcweb.loc.gov/copyright/>).

Internet research is not necessarily or primarily about fact finding. Good authors set out to get a broad, topical overview of their subject. It is in this situation as specific facts are used to back up a position, often to persuade readers, when copyright rules become critical.

Proper citation

Remember, bibliographic citation alone does not guarantee protection against copyright violation. Proper reporting, interpretation, format and quotation usage must be employed. When you are working to put your own training materials on the Net, make sure to provide linkage, maybe from every page, to a permission request form, as well as an authorship statement to protect your own copyright status. This is especially important to Distance Learning course delivery systems.

Protect yourself

Often copyright cannot be defined in wholly tangible terms. In general, when using the Web for research, copyright grants exclusive rights to reproduce, distribute, display and modify. When in doubt, don't use someone else's work, and if you must, get written permission.

Protect yourself and your work by staying informed; consult a copyright professional if you have to.

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