Copyright: What you need to Know

Bryan Carson, University Libraries
Sally Kuhlenschmidt, FaCET
Objectives: Upon completion able to describe…

- What is copyright?
- What is fair-use?
  - The four principles of fair use.
Agenda

- Look at your Handouts
  - Quiz
  - Powerpoint
  - Fair use Checklist
  - Booklet
- Brief Presentation on Copyright
- Questions/Answers
Overview

- Digitization has altered copyright and fair-use & continues to alter the rules
- Must re-educate yourself periodically
- Your interest is as
  - Creator of ip,
  - User of ip,
  - Manager of others' creations.
Defining Intellectual Property

- human creations that fix an idea in a form (e.g., text, images, sound, software, etc.)
- Original works are owned.
  - Not the ideas, but the form of the ideas.
- Copyright is for works of authorship
- The rules are more stringent for web classes than for face-to-face classes.
What is Copyright?

- Protection of original works of authorship
  - Don’t have to display © to be copyrighted

- Versus

- Patent: inventions/discoveries

- Trademark: words, designs uniquely identifying source of goods/services


Versus Plagiarism

- Citation of a source protects from plagiarism
  - Not from copyright infringement
  - A plagiarist violates both copyright and academic integrity.

- Alteration of the creation
  - May protect from plagiarism.
  - is not protection from copyright infringement
5 Rights of Ownership

1. Reproduction
2. Modification
3. Distribution
4. Public Performance (e.g., showing a film, playing a song)
5. Public Display (e.g., sharing a cartoon or a photo of a painting)
Person who creates, (puts in fixed form), owns the work,

- Unless it is “work for hire.”
  - The hirer owns it.
- WKU policy is, to simplify:
  - Faculty “Traditional works of scholarship” given to faculty.
  - Committee work is likely WKU-owned.
  - Staff- owned by university.
- Read the policy (http://www.wku.edu/ip/)
Term of Ownership

- Before 1923 in public domain...except trademark.
- After that varies by author-owned vs work-for-hire and by date produced.

- Go to this website (see resource list at end) for details.
Amount before copyright infringement?

- Law says: "limited & reasonable portion"
- No magic number or percent...sort of
- See Bryan for specific situations.
Fair Use for Education? (HO Checklist)

- More likely if
- Noncommercial use
- Factual work (vs creative)
- Small amount, insubstantial
- Small impact on commercial market

- Keep a copy of the analysis form as evidence.
Examples of media

- Textbooks often provide media (check license)
- Have WKU staff make it (belongs to WKU)
- Ask for permission from owner (*Sample Release Form*)
- Locate collections that are free (e.g., often government produced, pre1800)
- Make your own
- *RECENT 6th Fed District court case— you must provide a citation, even for fair-use images, videos, etc.*
The Blackboard Password?

- Blackboard password provides a measure of protection against violations.
- Shows trying to make sure only given to people in the class.
  - Like a student turning in a poor paper on time, at least they tried.
Practical Matters

- If you try and can’t find “owner” then use and just stop if you get a cease and desist letter. (Be able to document your effort to find owner).
- If you get a Cease and Desist letter–cease and then negotiate.
- Publishers monitor closely, especially for films and music.
Keep an Eye on Alternatives to Copyright

- Open resources movement
  - Open textbooks
  - Open course movement
    - E.g., MIT, MOOC
- Creative Commons License
  - http://creativecommons.org/
  - Safe way to share your products—
    - you define in advance what sorts of sharing you permit.
Resources

- **WKU policy** (http://www.wku.edu/ip/)
- **Creative Commons License**: http://creativecommons.org/
- **When in Public Domain**: http://www.unc.edu/~unclng/public-d.htm
- **Sample Release Form** (direct link): or http://libguides.wku.edu/intellectual-property/ Select Recording Agreement from tabs.
- **Copyright Office** http://www.copyright.gov/
- **Copyright Clearance Center**: http://www.copyright.com/
Video

- Enghagen - *The copyright case we’ve been waiting for.*
- Available on the shared drive: S:\UNIVERSITY-WIDE-SHARED\copyright\Magna Online Seminar
- Click on player.html
- Also see the handouts
More specific questions?

- Bryan Carson, librarian, lawyer, knowledgeable about copyright.
- Email (bryan.carson@wku.edu) or call him (745-5007) for help with particular situations.
Summary

- Nature of copyright
- Distinctions among key terms, such as trademark
- Work-for-hire and WKU IP
- 4 principles of fair use.