One-foot Copyright
Ten Essential Facts for Texas A&M Faculty & Staff

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Purpose of One-Foot Copyright

1. Promote core knowledge to support decision making by anyone creating or using copyrighted works
2. Refresh and update knowledge in a changing legal environment
3. Debunk myths, clarify misconceptions

1. US Copyright is federal law

- US Constitution
- 1976 Copyright Act plus subsequent amendments (US Code Title 17)
- Federal case law
- Code of Federal Regulations (US Copyright Office policy)
2. Copyright infringement

- Civil penalties
  - Seizure of copies, injunctions against activities
  - An infringer is ordinarily liable for statutory damages of “not less than $750 or more than $30,000” per work infringed.
  - If the infringer proves that he or she “was not aware and had no reason to believe that his or her acts constituted an infringement,” then the minimum statutory damages per violation are $200.

3. Copyright protects certain works

- Original expression
- Modicum of creativity
- Fixed in a tangible medium, visually perceptible
- Published or unpublished
- Most every genre and format
  - Literary works
  - Art
  - Music
  - Architectural works
  - Movies and performances
  - Computer programs

4. Copyright does not protect

- Ideas
- Names and slogans
- Facts, data
- Useful objects
- Public domain works
- Works of federal government employees working within the scope of their 9-5 jobs
5. Copyright belongs to

- Creator(s) by default
- Employer if work-for-hire
- Assignee(s) or Heir(s) in cases of copyright transfer

6. Copyright lasts for a limited term

- For works created after January 1, 1978
  - Term is calculated based on:
    - Life of Author + 70 years
  - When author is unknown or if work-for-hire:
    - year of publication + 95 years,
    - or year of creation + 120 years,
    - whichever expires first
- For works created before January 1, 1978
  - It varies!!! Use the copyright term chart or slider

7. Copyright system is “opt out”

- Eligible works are protected from the moment of creation and fixation.
- No formalities (notice, registration) are required to secure copyright protection.
  - Copyright notice is good practice because it obviates innocent infringement claims
  - Copyright registration is good practice because it provides additional benefits in the case of infringement
- It is possible to ‘opt out’ of copyright protection
8. Rights of copyright owner

- Reproduction
- Distribution
- Modification, derivative works
- Public performance
- Public display
- Public digital audio transmission

9. Rights of copyists
(Exclusions & Limitations to owner's rights)

- Section 107: Fair Use
- Section 110: Class Room Teaching
- Section 1201, Anti-circumvention and DMCA

10. Copyright rights can be given up

- Copyright owners can give up rights in agreements with publishers, producers, service providers
- Copyists can give up rights in agreements with vendors or service providers
- Read agreements carefully
- Negotiate for better terms
- Transfers and licenses can be terminated after 35 years if certain conditions are met
**Section 107: Fair Use**

- The most important exception to the exclusive rights of owners
- And the most vague!
- Can apply to anyone at any time when benefit to society outweighs harm to copyright holder
- Decided in courts, case-by-case
- Formulas, cut offs and other “guidelines” do not have the force of law
- Law requires user to make a four factor analysis

**Section 107: Fair Use Four Factors**

- the purpose and character of your use
- the nature of the copyrighted work
- the amount and substantiality of the portion taken, and
- the effect of the use upon the potential market.

**Section 107: Fair Use Checklist**

- Work through ALL sections of checklist to ensure all four factors are evaluated
- File your checklist as documentation of your decision-making process (good faith effort)

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Copyright Primers and Tutorials

- Copyright Basics (United States Copyright Office)
  [http://www.copyright.gov/circs/circ01.pdf](http://www.copyright.gov/circs/circ01.pdf)
- Copyright Tutorial (Georgia Harper, University of Texas)
  [http://www.lib.utsystem.edu/copyright/](http://www.lib.utsystem.edu/copyright/)
- Copyright Quick Guide (Columbia University Libraries Copyright Advisory Office)
  [http://copyright.columbia.edu/copyright/copyright-in-general/copyright-quickguide/](http://copyright.columbia.edu/copyright/copyright-in-general/copyright-quickguide/)
- Copyright Primer (University of Maryland, Center for Intellectual Property)
  [http://www-apps.umuc.edu/primer/enter.php](http://www-apps.umuc.edu/primer/enter.php)

Legal Basis of Copyright

- Copyright Law of the United States (US Copyright Office)
  [http://www.copyright.gov/title17/](http://www.copyright.gov/title17/)
- World Intellectual Property Organization (WIPO) Copyright Site
- Berne Convention for the Protection of Literary and Artistic Works

Is It Protected By Copyright?

- Copyright Term and the Public Domain in the United States (Peter Hirtle, Cornell)
  [http://copyright.cornell.edu/resources/publicdomain.cfm](http://copyright.cornell.edu/resources/publicdomain.cfm)
- Stanford's Copyright Renewal Database
  [http://collections.stanford.edu/copyrightrenewals/bin/page?forward=home](http://collections.stanford.edu/copyrightrenewals/bin/page?forward=home)
- Digital Copyright Slider
  [http://librarycopyright.net/digitalslider/](http://librarycopyright.net/digitalslider/)
- US Copyright Office – Search Copyright Records
  [http://www.copyright.gov/records/](http://www.copyright.gov/records/)

Owner's Rights and Publishing Agreements

- Keep Your Copyrights (Columbia University)
  [http://www.keepyourcopyrights.org/copyright/](http://www.keepyourcopyrights.org/copyright/)
- Creative Commons licensing
  [http://creativecommons.org/](http://creativecommons.org/)
- Resources for Authors (SPARC, The Scholarly Publishing and Academic Resources Coalition)
- Copyright Law and Graduate Research (Kenneth Crews, Indiana University School of Law & ProQuest)
- SHERPA/Romeo Publisher copyright policies & self-archiving (University of Nottingham, UK)
  [http://www.sherpa.ac.uk/romeo/](http://www.sherpa.ac.uk/romeo/)
- The Author’s Guild Negotiation Tips
  [http://www.authorsguild.org/services/legal_services/books.html](http://www.authorsguild.org/services/legal_services/books.html)
Section 107: Fair Use

- Fair Use – Practical Applications (Columbia University Copyright Advisory Office)
  http://copyright.columbia.edu/copyright/fair-use/practical-applications/
- Copyright and Fair Use (Stanford University Libraries)
  http://fairuse.stanford.edu/Copyright_and_Fair_Use_Overview/chapter9/index.html
- Fair Use Checklist (Columbia University Libraries Copyright Advisory Office)
- Fair Use & Copyright (American University Center for Social Media)
  http://www.centerforsocialmedia.org/resources/fair_use/

Section 110: Performances and Displays

- Exceptions for Instructors eTool (Michael Brewer, ALA Office of Information Technology Policy)
  http://www.librarycopyright.net/etool/
- TEACH Act Toolkit (North Carolina State University, Provost Office)
  http://www.provost.ncsu.edu/copyright/toolkit/
- The TEACH Act and some Frequently Asked Questions (Kenneth Crews and the American Library Association)
  http://www.ala.org/Template.cfm?Section=Distance_Education_and_the_TEACH_Act&Template=/ContentManagement/ContentDisplay.cfm&ContentID=34053
- TEACH Act Best Practices using Blackboard (American Library Association)
  http://www.ala.org/Template.cfm?Section=distanceed&Template=/ContentManagement/ContentDisplay.cfm&ContentID=34705
- Basic TEACH Checklist (Colorado State)
  http://tilt.colostate.edu/guides/tilt_copyrigh/checklist.pdf

Copyright Notice and Registration

- Copyright Notice, Circular 3 (US Copyright Office)
  http://www.copyright.gov/circs/circ03.pdf

Copyright Protection & Management Systems

- Summary of the Digital Millennium Copyright Act of 1998 (U.S. Copyright Office)
- Digital Millennium Copyright Act (DMCA) (Electronic Frontier Foundation)
  http://w2.eff.org/IP/DMCA/
- Educause DMCA Resources
  http://www.educause.edu/node/645/tid/31236?time=1267824769

Other Resources of Note

- Texas A&M Intellectual Property Policy
  http://otc.tamu.edu/inventors/index.jsp?cid=56
- National Institutes of Health (NIH) Public Access Policy
  http://publicaccess.nih.gov/
- Compliance Methods for the NIH Public Access Policy (Washington University Becker Library)