Copyright to Help You Copy Right

Part 1

Professional Development Day

2019

Amanda Ross

Access Services Librarian
First off, I want to say we are not the copyright police!

I’m a librarian at the NE campus and even before I became a librarian, I had an interest in copyright. Many librarians have some basic knowledge of copyright, which you might find strange until you realize that the Library of Congress oversees the U.S. Copyright Office. Librarians are hyperaware of copyright issues, because copyright affects library services and how we help you on a daily basis. And as a library, we have more exemptions than an individual might.

So, these are just some of my credentials and context for my interest in copyright in case you were wondering why I’m here today!

Standard disclaimer, I am not a lawyer. I’ve never been to law school. I like to say I am not an expert in copyright law, but I’m an expert in finding resources to help us understand copyright.
In these slides, I have linked to helpful tools and information for you to explore on your own. This is not going to be a history of copyright. This is to help us understand how copyright affects our work at TCC and how we can be innovative while respecting the law and using copyrighted content.


Video links:
https://www.youtube.com/watch?v=6dIOW4DRrp8
https://www.youtube.com/watch?v=IeTybKL1pM4

Chances are, we make decisions about copyrighted content every day – from sharing a quote on Facebook to making copies on a copier. Sometimes our decisions are informed, sometimes they
are misinformed. Our thought process for approaching copyrighted content, once we are made aware of the law, can fall on this spectrum.

These are screenshots of videos. You will find a range of copyright interpretation out there. Some interpretations focus on how creators are very protective of their copyright and come at us with an argument for their bottom line, comparing use of copies to theft.

The median view – as referenced in “The Case for Copying” – is that copyright affects art and innovation and how we are creative. Copyright was meant to protect creators' rights and it's interesting to think about what those right should be.

But my favorite video is the one on the right, under the blue arrow of the spectrum. It argues that copying is not inherently bad. Copies can be useful and helpful and lead to the betterment of society just as much as protecting creators' rights. The issue of copying is not always black and white. At least, not for the public. But for us as employees of the college it is more black and white. We want to avoid going to court! So, in the following slides, I want to address some ways we can remain copyright compliant while still exercising our right to make copies in some circumstances.

Slide 4
I am going to have to skip over most of these on PD Day 2019.

My role with copyright @ TCC

- Mackenzie Wilfong, General Counsel
- Paula Settoon, Dean of Libraries and Knowledge Management, Chief Copyright Officer
- Amanda Ross, Access Services & ILL Librarian & Librarians
- Employee Question

The first useful resource I want to point out is me! Because of my role with ILL and requesting copies of materials for our patrons, I think a lot about permissions, etc. I want to make it clear that I’m not a direct line to Mackenzie. I am a good filter. If I don’t know the answer I’m going to refer it to Paula Settoon, our Dean of Libraries. All librarians should be able to help answer some basic copyright questions if they come up. If they can’t then they will refer you to me. Don’t be afraid to ask us!
• Just because you give credit doesn't mean it's fair use
  — Copyright isn't just about not passing work off as your own (plagiarism), it's about protecting the creator's rights to make and distribute their intellectual property

This is the number one statement I’ve encountered so far when helping people solve copyright questions at TCC.

One way to avoid distributing copies is…
• Avoid acting as a publisher

These are taken from the actual copyright law, highlighting is mine: https://www.copyright.gov/title17/92chap1.html

So much about copyright isn't about the actual copying, but about what you do with those copies. The more of a thing is out there in the world, the less of a demand there is for it, possibly affecting the value.

Side note: the library has exemptions that you may not have, which might help your students in ways you cannot: https://www.copyright.gov/legislation/dmca.pdf
Another tip is this.

It is always better to link to content than to download and re-upload or copy and paste something into a new format. For social media, this could mean sharing a photo using platform features vs. downloading and re-uploading it. For a blackboard course, this could mean linking to the article where it is found online instead of uploading the PDF copy of it. Again, it’s good practice to not “republish” it but direct people to where content already is.
Many images you want to use for a project may be public domain or CC images. You might be questioned where you got them and why you thought it was OK to use them. If you have record through screenshots of where you found the content and the license that was associated with it, then you can be pro-active in case issues arise in your use.

If we, the librarians, attempt to help you get permission for a TCC-related issue, we are going to get it in writing.

Permission is a form of license and a license is an agreement not to go to court over your use *if* you follow what is outlined in the agreement.
• Just because you only used a portion, doesn't mean you're in the clear...
  -Myth: one chapter from a book is OK to copy
  -Myth: if I use 10% or less I'm *always* OK.

Next, let's talk about portion control. One chapter of a book may be half the book, chapter pagination is arbitrary. It's much safer to use 10% or less of a work. However, even that may fail you if the 10% is the integral heart of the work. Think about it like copying from the chorus of a song vs. copying another less memorable line when considering what is the “heart” of a work.

Portion is just one of the four factors of Fair Use. We will cover the four factors later.
"Portion" has various meanings
– Truth: thumbnails and resized images/reduced pixilation counts as limiting the portion at times

Portion control isn’t just about page count. Pixel count can qualify. There are creative ways of thinking about what qualifies as portion!

Thumbnails are reduced-size images of originals. YouTube videos utilize them to get you to click on content, for example.

The keyword here for this article’s title in the screenshot is “Some,” meaning others are or could be legal:
https://fairuse.stanford.edu/overview/fair-use/cases/
Portion usage is found in the four factors of fair use – "the amount and sustainability of the portion taken" (the third bullet point).

Read the first line of the top paragraph.

Again, we are trying to avoid going to court. The user of the copyrighted content has to make these decisions and has to decide ahead of time what they think a court would rule. Do not assume that what you decide will be what the college would have chosen or that the college would back you in your decision.

The four factors of evaluating whether or not something is a fair use can also be found on the backside of the handout given on PD Day: http://fairuseweek.org/wp-content/uploads/2015/02/ARL-FUW-Infographic-r4.pdf

https://fairuse.stanford.edu/overview/fair-use/four-factors/
Here's what the actual copyright law looks like where Fair Use and the four factors are mentioned. I want to stress that fair use is not a guideline, it is a right. It is in the law.

https://www.copyright.gov/title17/title17.pdf

https://www.copyright.gov/title17/92chap1.html#107
And speaking of guidelines... How many of you have heard of the 1976 classroom guidelines?

This is a version of them here and they state that you can use “a full article” or “a full poem” (see the blue highlight). People are backtracking from this mode of thinking because “full” is not a limited portion—it’s the entire thing!

Guidelines like "The Classroom Guidelines" should be taken with a grain of salt and their authority questioned. Fair Use and the four factors are law, but guidelines are not.

They suggest that the use must have things like "brevity" and “spontaneity” – which are just as hard to interpret and define as using the four factors in my opinion! My recommendation is that the four factors of Fair Use should be our main guide and we need to weigh those four factors each time for every use. While a court would probably rule that copying a full poem or article is OK in some circumstances, use generalizations like this at your own risk.

http://louisville.edu/copyright/resources/classroom-guidelines-1976

See also: https://www.copyright.com/Services/copyrightoncampus/content/index_class.html
There's no one-size fits all guideline or general rule that can really protect you. You have to weigh the four factors each and every time for every case.

These are some good quotes that call into question the purpose of guidelines, rather than using the four factors of Fair Use.

Also, I recommend anything by Kenneth Crews!
With that, I will show you our online resources TCC has for understanding copyright:

TCC Copyright Guide:  [http://guides.library.tulsacc.edu/c.php?g=118444&p=770985](http://guides.library.tulsacc.edu/c.php?g=118444&p=770985)

TCC Copyright FAQ:  [http://askus.library.tulsacc.edu/search/?t=0&q=copyright](http://askus.library.tulsacc.edu/search/?t=0&q=copyright)