COPYRIGHT LAW
AND
RIT’S COPYRIGHT POLICY C3.2

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What’s a Copyright?

- Exclusive right given to Authors and Inventors to their writings and discoveries
  - *U.S. Constitution Article I Section 8*
- Intended to promote the progress of science and useful arts by securing these exclusive rights for a limited time
- Do not confuse with a trademark
  - *Name, logo, or design used to identify a product or service*
What are These Exclusive Rights?

- Reproduce the work
  - *Make copies*

- Adapt the work
  - *Prepare derivative works*

- Publish the work
  - *Sell, rent, lease, lend or license*

- Perform the work
  - *Artistic creations*

- Display the work
  - *Show off the original*
What Can be Copyrighted?

- Literary works
- Musical works
- Dramatic works
- Pantomimes
- Sculptures
- Motion pictures
- Sound recordings
- Architectural works

“Minimal degree of creativity”
What Cannot be Copyrighted?

- Facts
- Ideas
- Procedures
- Processes
- Systems
- Concepts
- Principles
- Discoveries
What Cannot be Copyrighted?

Facts:

- They are not original to an author
- Compilations of facts CAN be copyrighted

“If the compilation author clothes facts with an original collocation of words, he or she may be able to claim a copyright in this written expression. Others may copy the underlying facts from the publication, but not the precise words used to present them.” Feist Publs., Inc. v Rural Tel. Serv. Co., 499 US 340 (1991)
Using Copyrighted Work

■ Permission of the owner
  - *Who is the owner?*
  - *Written permission*

■ Contractual rights
  - *How long does the permission last?*
  - *What permission is granted?*

■ © [Date] [Name of copyright holder]. Reprinted with permission.
When Can You Use a Copyrighted Work Without Permission?

- There are no blanket exceptions for not-for-profit entities
  - All colleges and universities must follow copyright law

- When it is no longer copyrighted and in the public domain
  - Works that are either ineligible for copyright protection or with expired copyrights
  - Works published before 1925 are in the public domain (USA)
  - Works published after 1925 may enter the public domain upon the passage of a creator’s life plus a statutory number of years (USA)
    - 70, 95, or 120 years
When Can You Use a Copyrighted Work Without Permission?

- **Face to face teaching exemption**
  
  - *Non-profit educational institutions can use copyrighted works, without the express permission of the creator and without the payment of royalties and/or licensing fees, when the use of the copyrighted work occurs in a face to face teaching situation*
Face to Face Teaching Exemption

- Legitimate work
  - No copies

- Part of a course
  - Must be a scheduled course
  - Does not need to be credit bearing
  - Students need to register

- Shown from same location it is being screened
  - No broadcasting from a remote location
Face to Face Teaching Exemption

- Shown during regularly scheduled class time, in classrooms or locations devoted to instruction
  - No dorm rooms
  - No cafeterias
- Attendance at the location must be limited to those registered for the course
  - Interpreters, lectures, okay
- No fee can be charged
When Can You Use a Copyrighted Work Without Permission?

- Technology Education and Copyright Harmonization Act
  - TEACH Act
  - Allows accredited, non-profit, educational institutions greater access and educational use of copyrighted works when certain requirements have been met by the institution.
TEACH Act

- Must be part of an online or distance learning course
- Must be limited to those enrolled in the online or distance learning course
- Access to the Copyrighted Work is protected by password or other protection device
- Written notice of RIT Copyright Policy must be provided to each student
When Can You Use a Copyrighted Work Without Permission?

- **Fair Use**
  - *When the face to face teaching exemption or the TEACH Act do not apply*
  - *A use is considered fair use if it will be used for*
    - Criticism
    - Comment
    - News reporting
    - Teaching
    - Scholarship
    - Parody
Fair Use

- If used for a valid purpose
- Then must balance four factors in order to determine if the use is fair use
- Four factors
  - *The purpose or character of the proposed use*
  - *The nature of the copyrighted work*
  - *The amount of the copyrighted work copied or used*
  - *The effect of the use on the potential market for the copyrighted work*
Fair Use

- No exception to the balancing of four factors
  - Failure to balance the four factors may result in copyright infringement

- No one factor is more important than another
  - Office of Legal Affairs and library can help
## Fair Use

### PURPOSE OF THE USE

#### Favoring Fair Use
- Educational
  - Teaching
  - Research
  - Scholarship
  - Criticism
  - Comment
- Transformative or Productive use (changes the work to serve a new purpose)
- Nonprofit use

#### Disfavoring Fair Use
- Commercial, entertainment or other
- Non-transformative, verbatim/exact copy
- Profit-generating use
## Fair Use

### NATURE OF THE COPYRIGHTED MATERIAL

<table>
<thead>
<tr>
<th>Favoring Fair Use</th>
<th>Disfavoring Fair Use</th>
</tr>
</thead>
<tbody>
<tr>
<td>□ Factual, nonfiction, news</td>
<td>□ Creative (art, music, fiction) or consumable (workbooks, test) work</td>
</tr>
<tr>
<td>□ Published work</td>
<td>□ Unpublished work</td>
</tr>
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</table>
## Fair Use

<table>
<thead>
<tr>
<th>AMOUNT COPIED</th>
<th>Favoring Fair Use</th>
<th>Disfavoring Fair Use</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Favoring Fair Use</strong></td>
<td>□ Small quantity (i.e. a single chapter or journal article or other excerpt consisting of a small amount of the work)</td>
<td>□ Large portion or entire work</td>
</tr>
<tr>
<td></td>
<td>□ Portion used is not central to entire work as a whole</td>
<td>□ Portion used is central or the “heart” of the work</td>
</tr>
<tr>
<td></td>
<td>□ Amount is appropriate to education purposes</td>
<td>□ Includes more than necessary for education purpose</td>
</tr>
</tbody>
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<thead>
<tr>
<th>Favoring Fair Use</th>
<th>Disfavoring Fair Use</th>
</tr>
</thead>
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<tr>
<td>□ No significant effect on the market or potential</td>
<td>□ Cumulative effect of copying would be to substitute for purchase of the copyrighted</td>
</tr>
<tr>
<td>market for the copyrighted work</td>
<td>work</td>
</tr>
<tr>
<td>□ One or few copies made and/or distributed</td>
<td>□ Numerous copies made and/or distributed</td>
</tr>
<tr>
<td>□ No longer in print; absence of licensing mechanism</td>
<td>□ Reasonably available licensing mechanism for obtaining permission to use the</td>
</tr>
<tr>
<td></td>
<td>copyrighted work currently available (i.e. CCC licensing or offprints available)</td>
</tr>
<tr>
<td>□ Restricted access (limited to students in a class</td>
<td>□ Will be making it publicly available on the Web or using other means of</td>
</tr>
<tr>
<td>or other appropriate group)</td>
<td>broad dissemination</td>
</tr>
<tr>
<td>□ One-time use, spontaneous use (no time to obtain</td>
<td>□ Repeated or long-term use</td>
</tr>
<tr>
<td>permission)</td>
<td></td>
</tr>
</tbody>
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Examples in News/Factual Reporting

- Charlie Chaplin’s death
  - *CBS showing video clips of his greatest performances*
  - *Facts about him OK, video clips NOT*

- Football player profiles
  - *Company compiled scouting reports and assigned players a grade*
    - Franchises purchase the reports annually
  - *Bloggers wrote articles about the reports and grades*

- French news agency and Twitter
  - *Agency took a photo a photojournalist posted on Twitter*
  - *Infringed the photographer’s copyrights in the photo*
Any Questions?