

Copyright and the Learning Center: Issues & Resources

Lynne Crandall
Georgetown University

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Copyright is one of several legal principles that make up the body of intellectual property law. Patent, trademarks, trade secrets, and the rights of publicity and privacy are also part of the intellectual property picture. This module will examine only copyright, a complex and evolving principle that has tremendous impact on the daily activities of learning centers. Copyright causes us to ponder such questions as:

- What are our **rights** as users and producers of copyrighted works?
- What are our **responsibilities** to the students and faculty we serve?
- What are our **responsibilities** to the intellectual property community whose works we use?

This module will present an international perspective when possible, but it is written in the context of United States copyright law. IALL has not adopted an organizational copyright policy and this module does not constitute an official position. Nor does it offer legal advice; it is information to aid you in your exploration of copyright. We will examine the following questions:

- What is copyright?
- What are the exclusive rights?
- What does "public domain" mean and how does a work get there?
- What is "fair use" and how do I know if my use is fair?
- Are there any guidelines to follow in determining fair use?
- How can I minimize the liability risks for my Center?
- How do I write a permission letter?
- Whom do you contact for permission?
- How can you protect the works you create?

Perhaps this is a starting point in your copyright research and its ramifications for the learning center, or perhaps it is but one of many steps you have already taken. Base your policies and decisions upon your research, as well as guidance from the individuals at your institution who are responsible for setting institutional policy and defending you in an infringement case.

What is Copyright?

“Copyright is a set of rights that protect an author’s original, tangible, form of expression.”

Copyright is a set of rights that protect an author’s original, tangible, form of expression. It doesn’t extend to any ideas, system or factual information that is conveyed in a copyrighted work, nor does it extend to any pre-existing material that the author has incorporated into a work. Two similar works can individually have copyright protection if they are original and creative works. Email, a seven-year old’s drawing and a best-selling novel all have the same rights. They are original creations fixed in a perceivable form.

Nearly every nation is a signatory to the Berne Convention—an international treaty which states that copyrighted works created by a citizen of another country have the same copyright protections as the works created by its own citizens. Another way to look at Berne is that, regardless of what country a copyrighted work comes from, its use is governed by the copyright laws of the country in which it will be used.

The United States Constitution lays a foundation for Congress to create intellectual property laws that balance individual property rights with the need of the public to use this same property. Congress gave authors and inventors limited, exclusive right to their respective writings and discoveries to encourage progress in the arts and sciences. The idea is if one can be sustained by and rewarded for their creativity, then they will continue to expand the knowledge pool and cultural artifacts of society. Content proprietors, including individual creators and the publishing and distributing industries, do have a right to exert a high measure of control over their property. The counterweight to exclusive rights is the need of the public to use copyrighted works to further knowledge and foster creation of new works. Thus, limitations, such as duration, on exclusive rights were set forth to provide eventual access to these valuable resources.

What are the Exclusive Rights?

Five exclusive rights are found in the U.S. Copyright Code, Section 106: reproduction, adaptation, distribution, performance and display. When the U.S. joined the Berne convention it also acknowledged the moral rights espoused by other Berne Convention signatories. The moral rights (attribution

and integrity) codified in 17 U.S.C. 106A(a)(b) are particularly designed for the protection of visual artists. However, other federal and state laws also address the moral rights. The rights of creators, including examples, are:

Reproduction Right: the right to reproduce the work in copies. Some examples of reproduction include:

- digitizing segments
- pressing a master laser disc or CD
- transferring a program from 3/4" U-Matic format to 1/2" VHS format
- converting a PAL videocassette to the NTSC standard
- taping a program off satellite, cable or broadcast TV.

In each of these instances, a new, perceivable, copy of the work is being created.

Adaptation Right: the right to produce derivative works based on a copyrighted work. A derivative work is based on one or more pre-existing works, such as a translation, musical arrangement, dramatization, art reproduction, condensation or any other form in which a work may be recast, transformed or adapted. Some examples of derivative works are:

- incorporating pre-existing works into a multimedia application
- editing and compiling several videos into short, content-based segments
- synchronizing music and narrative to a series of images to create a presentation.

In each instance, the new work is based on or uses pre-existing works.

Distribution Right: the right to distribute copies of the work. Distribution occurs in the following examples:

- testing the resulting product (i.e. multimedia application, videotape) at a collaborating institution
- making copies of the resulting product (i.e., multimedia application) available for use in the classroom and at multiple university computer sites in a networked environment including on servers from which copying is prohibited
- distributing the resulting materials as part of an audio-video package with a textbook

In each instance, copies of the work are made available for use by a different population than was intended in the distribution of the original work.

Performance Right: the right to perform the copyrighted work publicly.

Display Right: the right to display the copyrighted work publicly.

Although performance and display rights do not mean precisely the same thing, they are quite similar. Let's take a comic strip for example. If the strip is projected with an overhead projector to a public audience, the work has been displayed. If the same strip is then read aloud, or dramatized, it has been performed. Examples of public performances or displays include:

- using the work(s) for course related purposes at the institution. It is important to keep in mind that "public" includes educational settings, although when part of regular, non-profit instruction, the classroom is an exempted public setting. 17 U.S.C. 102(b)
- making the work(s) available for group or individual viewing, for enrichment and general educational purposes to the university community
- demonstrating the resulting derivative product at professional meetings and conferences when presenting a synopsis of the project.

A public performance or display can take place in any location where a group of people beyond the individual, his/her family and close circle of friends is gathered. Thus, performances of works at professional conferences, in residence hall lounges, cafeterias and meeting rooms may all constitute public performances. Displays or performances that are quite legal in the context of regular instruction in the classroom (or similar place devoted to instruction), would be quite illegal if done for a French Club activity. Even though the Club may have enrichment or educational goals, it does not constitute regular, systematic instruction at the institution.

Attribution Right: the right of the creator to claim authorship of the work and to prevent the use of his or her name as the author of a work he or she did not create; protects the rights of visual artists. In addition to the visual artist's rights set forth in 17 U.S.C. 106A(a), in the U.S. misappropriation prohibits the taking of someone else's work without obtaining their permission or giving credit to them. For example, give full credit in a resulting product and in any corresponding print materials. Cite the work according to the specifications provided by the copyright proprietor, or in standard citation form if no attribution style is not specified.

Integrity Right: the right of a creator to prevent the use of his or her name as the author of a distorted version of the work, to prevent intentional distortion of the work, and to prevent destruction of the work. For example, "morphing" the image from its original form to a new form without permission may infringe upon this right.

What Does "Public Domain" Mean and How Does a Work Get There?

"Once a work has entered the public domain it may be freely copied, incorporated into other works, or used in any other manner."

A public domain work is a work not protected by copyright. Once a work has entered the public domain it may be freely copied, incorporated into other works, or used in any other manner.

There are several ways a work can enter the public domain. Its creator can place the work in the public domain and abandon its copyright. This is different from the statement, "This work may be freely copied as long as credit is attributed," or "This work may be distributed for educational purposes." In these instances, the copyright proprietor has specified what may be done to the work, but they have not abandoned their copyright. To abandon copyright, one must state that the work is placed in the public domain and abandon all rights to it, including any right to attribution. In the United States works of the federal government are not protected by copyright (however the work of private contractors for the government may be copyrighted). Works consisting entirely of information that is common property, facts, titles, names, short phrases, familiar symbols, ideas, procedures and methods are in the public domain. Most works pass to the public domain when the duration of their copyright has expired.

Due to numerous revisions in the U.S. Copyright law since 1909, determining when a work will lose its copyright protection and enter the public domain can be difficult. The duration of copyright depends on when the work was originally created, if it has been published, by whom (single author or joint authors), in what context (an individual work or a work for hire), and which version of the copyright law was in effect at the time of its creation or publication. Laura Gasaway, Director of the Law Library and Professor of Law at the University of North Carolina has created a chart (table 1) that will allow you to determine when a work passes into the public domain.

Except in a very limited set of circumstances, public domain works cannot regain copyright status. Thus, an original version of a sixteenth century poem that is included in an anthology of poems cannot regain its individual copyright status. The act of reprinting the poem does not extend its copyright. The collection however, considering its unique selection and arrangement of poems, and any commentary, can be copyrighted as a whole, while the individual poem remains in the public domain. Additionally, a new translation of the poem can receive new copyright, while the original remains a public domain work. The limited circumstances where a work once in the public domain has regained its copyright status has resulted from the GATT and NAFTA treaties. These treaties restored some foreign copyrights (particularly films)

Table 1: When Works Pass Into the Public Domain

Date of Work	Protected From	Term
Created 1-1-78 or after	When work is fixed in tangible medium of expression	Life + 50 years (or, if work of corporate authorship, 75 years from publication, or 100 years from creation, whichever is first)
Published more than 75 years ago	Now in public domain	None
Published between 1963 and 75 years ago	When published with notice	28 years + could be renewed for 47 years; if not so renewed, now in public domain
Published 1964 – 77	When published with notice	28 years for first term; now automatic extension of 47 years for second term
Created before 1-1-78 but not published	1-1-78, the effective date of the 1976 Act which eliminated common law copyright	Life + 50 years. All work that remain unpublished as of 12-31-2002 will pass into public domain on that date.
Created Before 1-1-78 but published between then and 12-31-2002	1-1-78, the effective date of the Act which eliminated common law copyright.	Passes into public domain 12-31-2027

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in the United States and extended their copyright to 75 years from the date of publication. The reason some of these copyrights were restored by treaty has to do U.S. copyright registration and renewal requirements prior to 1978.

Under the Berne Convention no notice of copyright is required. All works are assumed copyrighted unless specifically placed in the public domain by the copyright proprietor. The often heard "there's no copyright notice on it so we can use it

any way we want" is not true! In the United States, registration of copyright entitles the proprietor to some statutory remedies in an infringement case, but registration does not alter the status of the work.

Consider whether other intellectual property rights, such as trademark, may apply when selecting a public domain work. For example, a Disney character may be copyrighted and trademarked. When its copyright protection expires, the trademark protection will still prevent its free use.

What is "Fair Use" and How Do I Know if My Use is Fair?

In the Preamble to the proposed World Intellectual Property Organization Copyright Treaty (December, 1996), participants affirmed "the need to maintain a balance between the rights of authors, and the larger public interest, particularly education, research and access to information..." This statement represents the first significant international recognition of fair use; we must seek to preserve it in our routine practices. Many in the proprietary industries seek to replace fair use with licensing structures. While simple and affordable licensing is desirable, it should not replace the legitimate practice of fair use. We need to protect the right of fair use which "is a valuable one to scholarship, and it should not be allowed to decay through the failure of scholars to employ it boldly" (Chicago Manual of Style, 14th Edition, section 4.58, page 148). Like language skills, if we do not use fair use, we may lose fair use. On the other hand, the EDUCOM Code on software and intellectual rights notes that "Respect for intellectual labor and creativity is vital to academic discourse and enterprise. ... Violations of authorial integrity, including plagiarism, invasion of privacy, unauthorized access, and trade secret and copyright violations, may be grounds for sanctions against members of the academic community." (EDUCOM Review, Vol 20, No. 1, Spring 1990.) We must strive to apply fair use appropriately; not all uses are fair uses, even in education.

So what is fair use? Section 107 of the U.S. Copyright Act describes fair use as a limitation on the exclusive rights given to copyright proprietors. As such, criticism, comment, news reporting, teaching (including multiple copies for classroom use), scholarship, or research is not an infringement of copyright if the use meets the test of four factors. What one can or cannot do under fair use is decided on the merits of each unique situation. To determine what is a fair use, all four factors must be considered and weighed against each other.

The first of the four factors which must be considered is the purpose and character of the use, including whether such

use is of a commercial nature or is for nonprofit educational purposes. Most learning center activities meet the latter criteria (e.g. non-profit education: teaching, scholarship, research). However, when one decides to market a work that was initially developed for internal institutional use, the purpose and character changes to that of a commercial nature.

The **nature of the copyrighted work** is the second test. The more factual the work, the more fair use applies. The more creative the work, the more likely it will be considered infringement rather than fair use. Additionally, whether or not the work has been published is relevant; it is unlikely that liberal uses of unpublished works would be fair uses.

The third test has multiple parts to consider: the **amount of the work one wants to use** (a complete copy, a significant portion, a small part), the **substantiality** of the portion used in relation to the copyrighted work as a whole (does the portion used convey the essence of the original work), and the proportion of the copyrighted work in relation to the new work (one out of 200 total images, an annotated work incorporating an entire text).

The fourth test, the **effect of the use upon the potential market** for or value of the copyrighted work, includes consideration of the original market for the work, as well as the market for licensing the work. Would the use make it unnecessary to purchase the work? Would the use replace the market for the work? Would the use bypass established licensing procedures?

Table 2 is a graphical way of looking at the four factors, as well as other contributing criteria that may be taken under consideration, such as spontaneity.

Are There any Guidelines to Follow in Determining Fair Use?

By U.S. law, the only legal guidelines to aid in the determination of fair use are the four factors. They intentionally lack specificity to allow the evaluation of each unique case and determine whether fair use is applicable based on its individual merit and scope. There is little case law in the educational arena to provide firm benchmarks for determining fair use.

When the current copyright code was revised in 1976 a number of guidelines were included in the congressional record of the legislation, although they are not found in the body of the law. These guidelines reflected compromise between members of the educational community and proprietary industries, and specified what was probably a safe harbor for off-air recording of broadcast television programs, the use of music and sound recordings, and photocopying of print works.

Table 2: Fair Use Factors

Factor to Consider	Possible Fair Use	Probably Seek Permission
Purpose and Character of Use	noncommercial, educational, scholarly, newsworthy	commercial, entertainment
Nature of the Work	factual, based on public documents	creative
Degree of Use	small portion of copied work	entire work
Proportion of Use to Length of New Work	small % of user's work	large % of user's work
Economic Effect of Use	little or no devaluation	substantial actual or probable devaluation; use becomes substitute for work
Other Guidelines		
Exposure	single use, small audience	multiple use, large public audience
Premeditation	spontaneous	systematic, continuing
Honesty of Use	good faith, credit to owner	deception, dishonesty

In 1976 video was just beginning to emerge as a viable educational tool. Computer-based, digital work was not an option for the teaching and learning communities. Times have changed! Now anyone with consumer-level equipment can copy or edit videotape, digitize images and sound, or place any combination of media types on the web for instant browsing or downloading by thousands of people simultaneously. The way we teach, and learn, has changed. Our environment has changed, our tools have changed. Does copyright law need to change too? Are guidelines for digital work necessary? Many in the educational community think the answer is yes. They seek the "safe harbor" guidelines may afford.

"The Conference on Fair Use (CONFU) grew out of the Clinton Administration's call in the Green Paper to bring together both sides of the fair use issue—proprieters and users—to develop guidelines for the educational community."

In 1994 several working groups were established to develop guidelines for fair use in the electronic environment. The Conference on Fair Use (CONFU) grew out of the Clinton Administration's call in the Green Paper to bring together both sides of the fair use issue—proprieters and users—to develop guidelines for the educational community. Several task forces were convened to examine specific electronic uses of copyrighted work: digital images; distance learning; electronic reserves; and interlibrary loan and document delivery. At the same time, the Consortium of College and University Media Centers (CCUMC) assembled a similar group to discuss and draft fair use guidelines for multimedia development. Because of their similar mission, the CCUMC group became a part of the CONFU process. The drafting work of these groups has concluded. Some working groups, such as the one that devised the Multimedia Fair Use Guidelines had success in forming guidelines. Other groups could not reach consensus, such as the Interlibrary Loan working group. (See Appendix A for the URL's for the CONFU reports.)

Whether or not you decide to adopt the new digital guidelines in the work of your Center, keep the following in mind:

- 1) They are for the digital environment only, not analog work.
- 2) The entire educational and proprietary communities have not agreed these guidelines are "safe harbors." They reflect the hard work of representatives from the educational community and proprietary industries to determine fair uses.
- 3) They are not law. A judicial decision of fair use or infringement will be based on an examination of the four factors.

How Can I Minimize the Liability Risks for My Center?

There are a variety of ways to minimize the risks a learning center faces as part of routine business. A **posted notice at any location where one might make a copy** of a print, audio, video or digital media work warning the user to consider copyright law before making a copy is sound policy. Paper copiers, audio duplicating equipment, scanners and VCRs should have a copyright warning affixed to them. You may also wish to post a notice regarding public performance and display limitations on a VCR, audio tape player or computer presentation system. For example, a notice printed on a departmental mailing label and attached to a VCR may simply say:

United States Copyright law (U.S.C. Title 17) prohibits the unauthorized performance, display or duplication of audiovisual works.

A posted copyright policy is an excellent way to let patrons know that misuse of borrowed materials or equipment is at their own risk. Such a policy also protects staff. Some centers

require patrons to sign a letter of copyright compliance before resources are loaned. (See Appendix B.) Even better is a campus-wide policy. Unfortunately, this may not be the highest priority for campus administrators. At one well-known institution all segments of the campus community are informed of their personal obligation to act ethically and of their personal exposure to prosecution if they choose not to. Several times a year, the Provost sends a memo outlining personal responsibility, warning of consequences, and explaining the fair use guidelines. Potential infringers are adequately warned that the University insists on ethical behavior and transgressors will receive no help or sympathy if caught. The same information is published in the personnel bulletin and given to new students and staff. Several other comprehensive institutional policies, such as that of the University of Texas system, are available on the Web.

"Ignorance of the law is not a defense in a copyright infringement case, so become informed!"

Ignorance of the law is not a defense in a copyright infringement case, so become informed! Ignorance may mean the difference between willful and negligent infringement, but it will not excuse the infringement. Therefore, one should learn and apply all relevant copyright information to learning center management. The consistent application of appropriate procedures is the best way to minimize copyright liability.

One cannot turn a blind eye to infringements either. This does not mean that learning center personnel must police the activities of their clients. We are in service to provide resources, equipment, information and training to our clients to improve the teaching, learning and research environments. This mission can easily extend to providing copyright information and training as well. If one knows, or has good reason to believe, that Center resources are being used to infringe copyrights, then action must be taken to minimize culpability for the unit and the institution, and the client should be informed to reduce their own risk of prosecution.

For example, many faculty tape programs off broadcast television while abroad. If they request you to convert television standards from PAL to the NTSC, or add the tapes to the Center's library, they may unknowingly be requesting you to infringe copyrights. While taping and long-term retention of a program may be permissible for a private individual, it is not permissible for a public institution to participate in its duplication (standards conversion creates a copy of the tape), retention or performance. People have become very accustomed to home taping of programs, and don't realize that private activities and public activities have different sets of rules. In the United States, the Off-Air Taping Guidelines are clear

“Do not neglect the royalty-free resources available on your own campus, as well as royalty-free collections available for sale.”

about how long a program may be used in an educational context without licensing (securing copyright permission): ten school days from the date of taping for use with students, and 45 calendar days to evaluate whether the program is desirable for licensing. After informing the patron of relevant copyright restrictions, Center personnel can offer to assist with licensing, or help to identify a substitute program. Following a copyright “no” with an offer of assistance helps sustain good relations with faculty.

Do not neglect the royalty-free resources available on your own campus, as well as royalty-free collections available for sale. Campuses have healthy library, museum or departmental collections of images, sound, music, video and text, where the copyright is owned by the institution. These are often unknown resources to those outside of their normal disciplinary use. Find out where these collections are and how you, your faculty and your student patrons can gain access to them. In addition, many companies are distributing royalty-free image or sound collections on CD that can be used in analog or digital campus projects. The advantage of these collections is that as long as the resulting work is used only within the institution, the resources may be used without additional payment of royalties.

One little known relief for employees of nonprofit educational institutions is Section 504(c)(2). This section on statutory damages states:

The court shall remit statutory damages in any case where an infringer believed and had reasonable grounds for believing that his or her use of the copyrighted work was a fair use under section 107, if the infringer was: (1) an employee or agent of a nonprofit educational institution, library or archives acting within the scope of his or her employment who, ...infringed by reproducing the work in copies or phonorecords....

Again, being able to document consistent practices, particularly in the case of determining fair use applications, is an important element of reducing liability.

How Do I Write a Permission Letter?

A good permission letter addresses the who, what, where, when, why and how of each unique situation. “Who” is the institution, department, and if relevant, the individual faculty, staff or student developer as well as “who” is the end user. “What” refers to the specific, named item you wish to use. “Where” is the extent of distribution, the geographic location of use: a specific campus; identified multiple campuses; North American publication; worldwide distribution?

“When” provides information on the planned frequency of the use: every semester; once per year; for five years; in perpetuity? “Why” is the project rationale, and may include a description of the need for the particular work you are requesting permission to use. Finally, “how” indicates exactly how you plan to use the work. Will it be digital, delivered via computer network or the Web? Will it be a video copy you archive? Specificity is critical. (See Appendix C for sample permission letters.)

Table 3: Information Needed for Copyright Permissions

Information Needed	What it refers to
publication, publication author, publication date	from the overall work such as the book or video title
publisher, publisher address	who put out the publication
work	the piece you are using: a portion of text, poem, image, song, a few seconds of video
author	the “author” of a work may not be the publication author: the photographer or author of an individual piece of work
location	the place of the work in the publication: page number, CD track, position in minutes and seconds on a videotape

Differentiate between instructional and educational uses. Instructional uses are intrinsically attached to a programmed course of study in which learning objectives are established and credit is awarded. Educational uses involve providing information or experience to the university community and, in many instances, to the general public. While the mission of conversation clubs or film festivals may be educational, they fall outside the regular curriculum. Some proprietors will grant licenses for instructional activities but not for general educational activities.

Beyond specific content identification (e.g., reference citation, location and duration of video segments, image specifications) include the sum and substance of the proposed product. What

percentage of the finished project relies on the requested item? What is the relationship between the requested item and other pieces?

Ask for what you need. When planning a permission letter, make reference to the exclusive rights granted to content proprietors (reproduction, adaptation, distribution, performance and display). For example, a typical multimedia request would ask for:

- reproduction rights to create analog or digital copies of the work
- adaptive rights to incorporate the work into a multimedia application
- distribution rights to make the material available to students over the campus computer network
- performance or display rights

In addition, to eliminate concern about possible infringement when presenting projects at professional conferences, also request permission to demonstrate the resulting computer application when presenting a synopsis of the project.

Whom Do You Contact for Permission?

For all media types, the best source of information about potential copyright holders is the resource itself. Good recordkeeping when resources are identified and selected can save a great deal of time and energy when the time comes to apply for copyright permission.

Note the name and address of the publisher of the resource, the name of the publication, its creator, publication date, and the creators of any individual works from the publication that you plan to use. Illustrated works generally provide a list of credits; in most books, this list is located at the beginning or end of the book, and occasionally credits are given in the captions of illustrations. CDs and videos also provide credits in the printed material on the cases that can be useful in tracking down copyright holders. If you have the pertinent information for your resource for each of the items listed in table 3, you will be well prepared to request copyright permissions.

It is possible that all the information may not be available on the resource itself or may be out of date. You may also be dealing with incomplete resource lists compiled by someone else. If this is the case, the reference section of your library can be a great help in tracking down information. It is a good idea to check the address of the publisher provided in any book over five years old. (See Appendix D for useful resources.)

How Can You Protect the Works You Create?

Although most often we are concerned with possible infringement by patrons, we should also be alert to copyright issues related to the work that we or our patrons create. If we assign copyright to a publisher by signing a standard contract,

we may lose the right to give permission to copy our own work—even to colleagues, even after the item is “out-of-print.” Moreover, the newest standard contracts may include phrases which give the publisher the exclusive right to include articles (without additional compensation) in any type of media and technology whether now known or hereafter developed, in perpetuity throughout the universe.

Another way to protect your copyright is to define the roles and rights of contributors, talent and staff. In a work-for-hire situation, the creators are still the owners of the copyright unless they assign and transfer all rights for the product to you. If the creator is a regular employee, and the work is done within the scope of employment, then copyright may belong to the institution. In these instances, have all participants sign model or waiver releases (see Appendix E for samples).

Oftentimes, we don't think about needing a waiver of copyright in a work. One frequent example is taping a lecture by a visiting scholar. A variety of intellectual property laws are in question here: copyright as well as the rights of publicity and privacy. A simple model release authorizing the unit to videotape the lecture, and subsequently use it in other educational circumstances, or duplicate it, is much easier to do when scholars are on campus, than to try to track them down after they have left. Additionally, a signed release from a legal guardian must be obtained for talent under eighteen years of age.

Many institutions have intellectual property policies that govern copyright ownership. Some policies recognize both the faculty content contribution and institutional support contributions, resulting in a shared copyright between both. Staff are not usually awarded the same intellectual property recognition as faculty; their contributions are generally considered within the scope of their regular employment. Work done by students, or student employees, may have different rights attached to it than work done by faculty or staff. If future duplication, performance, distribution or adaptation is likely, make sure you know what you can do with the material, by having everyone involved sign a copyright waiver.

Finally, put a notice of copyright on the work. A simple © 1997 IALL, for example, makes it very clear who should be contacted if someone wants to ask permission of you to use your work! Even though it's not required, it simplifies the process for everyone.

As administrators of media centers and media resources, we need to ensure the legal and ethical use of copyrighted works, no easy task in the best of circumstances. Our changing technological and educational environments present additional

challenges. For example, what is a classroom, and where is it located? Why is using a digital copy different from using its analog counterpart? The only way to make prudent choices is to keep informed of the evolving copyright environment, too. Appendices are included to assist you in continuing your education and research on this complex topic.

For easy hot links, refer to Module 9 of the Management Manual, located at the IALL website, <http://eleazar.dartmouth.edu/IALL>. Keep reading, and defining copyright, and its ramifications for the learning center. ■

Appendix A— Copyright Resources

by Irene Starr
University of Massa-
chusetts—Amherst

Many groups interested in copyright maintain WWW sites for the benefit of the user and/or the producer of copyrighted works. Part I below lists organizational addresses including non-profits and commercial groups. Part II has listings that lead to considerable additional information. Part III provides a range of articles and sites related to copyright. These sites were active in May, 1997.

Part I: Organizations

- American Association for Higher Education
<http://www.aahe.org/>
- American Society of Information Science (ASIS)
<http://www.asis.org>
- Association for Educational Communications and Technol-
ogy (AECT)
<http://www.aect.org>
- Association for Information Media and Equipment
<http://www.aime.org/>
- Association of American Publishers (AAP)
<http://www.publishers.org/>
- Association of Reserach Libraries
<http://www.arl.org/>
<http://arl.cni.org/info/frn/copy/copytoc.html>
- The Creative Incentive Coalition
<http://www.cic.org>
- Educom
<http://educom.edu>
- Electric Frontier Foundation
<http://www.eff.org>
- International Intellectual Property Alliance
<http://www.iipa.com/>
- International Association of Learning Laboratories (IALL)
<http://eleazar.dartmouth.edu/IALL/>
- Institute for Academic Technology

<http://www.iat.unc.edu/>
 Library of Congress
<http://lcweb.loc.gov/>
 Motion Picture Association of America
http://www.mpa.org
 Motion Picture Licensing Corporation
<http://www.mplc.com/>
 National Association of College and University Attorneys
<http://www.nacua.org/>
 National School Boards Association (NSBA)
<http://www.nsba.org>
 Software Publishers Association
<http://w2.spa.org/>
 World Intellectual Property Organization
<http://www.wipo.org/>

Part II: Electronic References

CNI-copyright@cni.org—A discussion list sponsored by the Coalition for Networked Information, a joint project of the Assoc. of Research Libraries, CAUSE, and EDUCOM.

E-mail the message, SUBSCRIBE CNI-COPYRIGHT Your Name, to the Coalition's server, LISTPROC@CNI.ORG, leaving the subject line blank.

Copyright Resources Online, 13 May '96

<http://www.library.yale.edu/~okerson/copyproj.html>

Well annotated with many useful links.

International Federation of Library Associations and Institutions

<http://www.nlc-bnc.ca/ifla/II/copyright.htm>

An exhaustive bibliography (with links), periodicals, organizations and other WWW sites, policy statements, and international laws.

UMass Amherst

<http://www.umass.edu/langctr/cr-fu.html>

This site includes this resource list and its links.

Agora Language Marketplace: Obtaining Releases for Incorporated Material

<http://agoralang.com/showcase/authors/copyrel>

Becker, Gary H. A Question of Fair Use: Copyright and the New Technologies

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- Copyright Licensing Sources
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http://www.eff.org/pub/Intellectual_property/
- Entertainment Law Resources: For Film, TV and Multimedia Producers
<http://www.laig.com/law/entlaw/>
- Government Documents (Order hotline: 202-707-9100. Info specialist: 202-707-3000.)
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 WWW Multimedia Law
<http://www.batnet.com:80/oikoumene/index.html#mmlf>
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Appendix B— Copyright Policy Postings

ATTENTION PATRONS!

When you borrow materials, you agree to:

- honor copyright laws and not copy any materials loaned to you.
- not to allow anyone else to use or copy such materials without written consent from the FLRC.
- comply with current loan regulations, including but not limited to types and amounts of materials borrowed
- return of materials by due dates.

Failure to comply can result in loss of FLRC privileges and/or administrative withdrawal or a hold on registration.

Copyright information is available upon request.

**UMass FLRC
COMPUTER USE GUIDELINES**

We appreciate your consideration of all who are sharing these resources. Please note that this computer room is staffed only a few hours per week. We expect to add more staff and computers gradually.

SCHEDULING

- FOREIGN LANGUAGE instructional development, classroom assignments, and exploration have priority.
- You may schedule an appointment, in person or by phone. Remember to cancel if you can't keep your appointment.

SAVING YOUR FILE

- If you are creating files, please store them on your disk. If necessary you may create a new folder on our hard drives, titled YOUR NAME, within the area called Users' files. Remember SAVE OFTEN!
- Files more than four weeks old, on our drives, will be erased at our convenience. We are NOT responsible for your files.
- Note that there is no security system to protect files that you leave on our hard drives. Please do not leave any confidential materials.

COPYRIGHT CONSIDERATIONS

- Do not copy our software applications or files. This is unacceptable.
- We may be able to add your software applications temporarily. However, you must discuss this with us before doing so.
- Using copyrighted music, photos, text, and/or video, without permission, will limit your ability to use your completed project in any public way. Think twice before investing too much time in a project of limited use.
- We have extensive copyright information available which you are encouraged to request.

FOOD OR BEVERAGES

These are not permitted in the Center. The tables in the foyer are available for snacking.

I have read and agree to the above policies.

Print name:

Date:

Signature:

Appendix C— Sample Per- mission Letters

Sample Multimedia Permission Request

«Date»

«Contact_name»

«Copyright_holder»

Copyright Permissions

«Street»

«City, State, Zip»

Dear «Contact name» Sir or Madam:

This letter is to request permission to use the «Media_type»(s) specified below from «Publication» published by «Publisher» in «Publication_date», in a multimedia application being developed by a professor of «Department» at «Institution Name» for use in a course entitled «Course_Name». I understand «Copyright_holder» holds the copyright on these items:

«Location1», «Work1».

The course will «focus of course»». The purpose of the multimedia application is to provide students with «focus of multimedia application»».

For this application to be effectively implemented as a learning tool, the «Media_type»(s) must be digitized. Given course enrollment numbers (N+ per semester), more than one copy of the multimedia application will be necessary at the computing sites to enable students to complete their work in a timely manner. **«In addition, if and when the technology becomes more effective, I would like to have the Media_type pressed to CD in order to provide a more efficient format for management and delivery.»**

We request your authorization to use the aforementioned «Media_type»(s) with any or all of the following conditions and specifications:

1. Digitize or press to CD the specified «Media_type»(s).
2. Incorporate the specified «Media_type»(s) into a multimedia application; the completed application will contain «text, images, spoken word, music, video».
3. Make the resulting multimedia application available for use in the classroom.
4. Make the resulting multimedia application available in a networked environment on servers restricted to use «Institution Name» students, faculty and staff, from which copying is prohibited.

- 5. Demonstrate the resulting multimedia application when presenting a synopsis of the project.
- 6. Full credit will be given in the resulting multimedia application.

To indicate your approval of this request, kindly sign and return one copy of this letter. I would appreciate hearing from you as soon as you can possibly manage.

Thank you for your time and attention in this matter. The inclusion of the «Media_type» in this multimedia application will provide students with a valuable resource.

Sincerely,

«Requester»
«Title»

«Publication»
«Location1», «Work1».

Permission granted: _____ Date: _____
(name)

(title)

Form of copyright acknowledgment (please indicate exact wording of acknowledgment):

Specifications or other conditions:

- «Contact_name»: contact person, if known
- «Copyright_holder»: individual or entity holding the copyright—can be a publisher, producer, author, etc, may be the same as the contact name or publisher
- «Street»
- «City,State,Zip»
- «Media_type»: audio, image, text, video, graphic
- «Publication»: full text name, program name, cd title
- «Publisher»: or producer
- «Publication_date»: year of publication
- «Department»,«Course_Name»: department of faculty developer and course the application is being created for
- «Location1»: where in the copyrighted work does the piece come from?
page number?
minutes/seconds into the work?
- «Work1»: name of the specific piece—poem name, image title
- «focus of course»: general objectives of course
- «focus of multimedia application»: learning objectives of multimedia application—what students will do/get
- N+ per semester
how many students per semester will be affected? 500+?
- «In addition, if and when the technology becomes more effective, I would like to have the Media_type pressed to CD in order to provide a more efficient format for management and delivery.»
if storage or acces in another medium (CD, laserdisc) may be desired

- «text, images, spoken word, music, video»
media types and quantities the entire application will consist of
- «Requester»«Title»: individual the copyright holder should respond to

Proposed Standard form Seeking Permission to Copy Videotapes

letterhead stationery
 your institution
 your address
 your phone

Date _____

TO: PERMISSIONS DEPARTMENT, (name of company)
 FROM: Your name, title, department

We are seeking permission to duplicate the following videotape(s) for use at our institution:

 (TITLE) (OUR CALL #)

This program has been purchased at the request of the faculty for use by students at the institution. It is highly desirable for our laboratory to make additional copies of the tape, first as a protective measure against possible damage, and further, to provide more accessibility in a closed-circulation system. A copyright notice will be affixed to all copies. Please check yes or no for *every* category listed below and return this form in the enclosed envelope. Your cooperation is greatly appreciated.

- | | | |
|-----|-----|---|
| YES | NO | CHECK YES OR NO FOR EVERY CATEGORY |
| () | () | 1. Permission to copy freely, with no restrictions. |
| () | () | 2. Permission to allow duplication by other non-profit educational institutions, for use in their facilities (e.g., through inter-library loans). |
| () | () | 3. Permission to copy for student use at home, distributed at cost by the laboratory. A signed agreement not to further duplicate such materials is required from the user (see attached form). |
| () | () | 4. Permission to copy for student use at home, distributed on a loan basis (i.e., all copies to be returned to the laboratory). |
| () | () | 5. Permission to make multiple copies for use in the laboratory setting and in classrooms at the institution. |
| () | () | 6. Permission to make a single back-up copy for circulation; the original will be protectively stored, not used. |
| () | () | 7. Permission to broadcast the program over the closed network system at the institution (describe your facilities). |
| () | () | 8. Alternative agreements or stipulations connected to one or more of the above categories are attached. |

 Authorized Signature

 Date

 Name, please print

 Title

Proposed Standard form Seeking Permission to Back up Phono Records & Compact Discs

letterhead stationery
your institution
your address
your phone

Date _____

TO: PERMISSIONS DEPARTMENT, (name of company)
FROM: Your name, title, department

We are interested in expanding the music collection of the (name the facility). We are unable to use records on our laboratory audio system. We would like permission to duplicate the records produced by your company which have been purchased by our institution for use in the (name facility). These duplicates will become part of our music tape collection for use by faculty, staff, and students at (name the institution). A copyright notice will be affixed to the copy. The title for which we seek permission is:

disc number	title	our call #

TYPE OF REPRODUCTION A stereo cassette audiotape will be made of the entire disc to facilitate playback in the lab.

NUMBER OF COPIES Only one copy will be made of the entire disc.

USE TO BE MADE OF COPIES Tapes will be available on demand for music instruction programs and pleasure listening. Cassettes may be played through the lab's audio system or used on an individual basis for individualized instruction and self-paced learning.

DISTRIBUTION OF COPY The tape will be played exclusively through individual student, staff, or faculty request. There will be no charge for listening.

USE OF DISC Upon duplicating the entire disc, it will be placed in the laboratory archive, out of circulation, and will not be available for client use.

A self-addressed envelope is enclosed for your convenience. Please inform us below of any conditions you wish to apply to this use. And, if permission is granted, kindly send us your most recent catalog. Thank you.

Permission granted

Conditions, if any:

Authorized signature

Date

Name, please print

Title

Appendix D— Permission Seeking Resources

Internet Resources

- Library of Congress catalog and Copyright Office database
 - telnet to locis.loc.gov
- New York Public Library
 - telnet to nyplgate.nypl.org, login as nypl
- University of California MELVYL system
 - telnet to melvyl.ucop.edu
- Online Computer Library Center (OCLC)
 - library must be a member, may require assistance from reference librarian

Print Publications

- Publishers Directory, published by Gale Research, Inc
 - addresses for publishers in the United States and Canada
- Publishers' International ISBN Directory, published by K.G. Saur
 - addresses for publishers throughout the world alphabetically by name, by geographical location, and also by International Standard Book Number (ISBN)
- International Directory of Little Magazines and Small Presses, published by Dustbooks
 - obscure publishers
- Books in Print, published by R.R. Bowker
 - For American books by author, title, and subject
- Books Out of Print, published by R.R. Bowker
 - contains books that have recently gone out of print
- Canadian Books in Print, published by the University of Toronto Press
- Whitaker's Books in Print, published by J. Whitaker
 - both cover books produced in other English-speaking countries
- International Books in Print, published by K.G. Saur
 - covers major publications from around the world
- Libros en Venta (Spanish), published by Melcher Ediciones
- Livres Desponsibles (French), published by Editions du Circle de la Librairie
- Verzeichnis Lieferbarer Bucher (German), published by K.G. Saur
- Catalogo dei Libri in Commercio (Italian), published by Editrice Bibliographica
- Ulrich's International Periodical Directory, published by R.R. Bowker
 - covers the largest number of magazines, journals, and newspapers
- Working Press of the Nation, published by National Register Publishing
 - for the United States, covers television and radio stations, newspapers and magazines, and internal publications of various organizations

Benn's Media

- covers the same broad subjects as above and is divided into three volumes covering the United Kingdom, Europe, and the rest of the world

Works of Art

The World's Master Paintings, published by Routledge

- lists major works of art by artist and period
- provides the name of the museum which holds the work

Complete Works of... series, published Rizzoli and Weidenfield & Nicholson.

- locating lesser works by major artists and credits the owners

Official Museum Directory, by R.R. Bowker

Museums of the World, by K.G. Saur

**Appendix E—
Sample Model
Release and
Waiver Forms**

INSTITUTION
unit name
MODEL RELEASE

I, _____, give the «institution» unit name permission to produce a «media type» recording of me in conjunction with «author/creator name» «text name» on «recording date». I transfer and assign all rights to this recording to the «Institution» unit name.

I certify that I am eighteen years of age or older.

SIGNED

DATE

WITNESS

INSTITUTION
unit name
TRANSFER AND WAIVER OF COPYRIGHT

I, _____, transfer and assign all rights to the work I created or performed for the project presently identified as:

_____ to the «Institution» *unit name*. I understand this is a work-for-hire and do not expect compensation beyond the agreed upon _____.

I certify that I am eighteen years of age or older.

SIGNED _____

DATE _____

WITNESS _____

ReCALL

The European Association for Computer Assisted Language Learning (EUROCALL) is an association of language teaching professionals from Europe and worldwide, which aims to:

- promote the use of foreign languages within Europe;
- provide a European focus for all aspects of the use of technology for language learning;
- enhance the quality, dissemination and efficiency of CALL materials.

For details of how to subscribe to EUROCALL and receive ReCALL, contact:

*June Thompson, EUROCALL Secretary
CTI Centre for Modern Languages
University of Hull, Hull HU6 7RX, UK
Tel: +44 (0)1482 466373, fax: +44 (0)1482 473816
email: EUROCALL@hull.ac.uk*

Further information on World Wide Web:

<http://www.cti.hull.ac.uk/eurocall.htm>

Journal of the CTI
Centre for Modern
Languages,
University of Hull
in association with
EUROCALL