

Copyright or Copywong

Basic Guidelines and Resources





IMNAL - Standard Disclaimer

We cannot interpret law in library work.

“Can I copy this?” unintentionally puts us in a position to interpret complex law.

The answer is: “It depends.”

Assume copyright protection, unless you are sure.



Copyright, extremely simplified

“To promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries.”

–United States Constitution, Art. I, Section 8

After 230+ years of tweaking, there is a lot to navigate.

You can find the entire U.S. Code covering it here: www.gpo.gov



Title 17 U.S.C. §§ 101-1101, the Copyright Act

What is protected by copyright? A tangible, original work from the moment it is created.

- What may be copied?
 - Public Domain: currently includes works **published** prior to 1923 and then it gets tricky
 - Consider that each part may have a different creator and publishing year
 - Happy Birthday has a very old tune, with lyrics printed in 1912, but the first published version (with the lyric creator's permission) was 1935. Tricky!
 - Creative Commons license allows a creator to communicate how a work may be used
- Who may copy?
 - Copyright holder: rights are bundled, but can be separated, and all or part can transfer
 - **Libraries have a special status given in section 108! Review the best practices links.**
- How long is it copyrighted: this changed over time
 - Publishing year (copies distributed with the creator's permission), then add up to 95 years
 - After 1978, for an individual creator, their lifetime + 70 years



I have great news!

In January 2019, works from 1923 will enter the public domain! Adding a year each January until we add 1977.

THE WAIT IT OVER!

Then, it gets complicated.



The Sonny Bono act

Published works after 1978:

Individual copyright : life of creator + 70 years

Corporation copyright: 95 years

(If you are an archivist dealing with unpublished works, there is an *entirely* different set of rules.)

<http://chart.copyrightdata.com/index.php#top>



Fair use, a right to transform a work

It is a legally defensible exception to copyright protections based on considering and balancing four factors to determine if your use is fair:

1. **The purpose and character of use** (ex: education, scholarship, research, news reporting, satire, criticism, reviews and commentary. Non-profit.)
2. **The nature of the copyrighted work** (ex: published work, considered less creatively original such as a fact book.)
3. **The portion used in relation to the copyrighted work as a whole** (difficult to assess, less is better, ex: a paragraph rather than an entire article)
4. **The effect of the use upon the potential market** (could my use substitute the original commercially? Ex: sharing an article from behind a paywall. The secondary permissions market has yet to have a major case to guide us.)



A system of filing copyright renewals

It is possible works from 1923-1963 to had failed to renew their copyright and have already entered the public domain. It is best practice to give your patron information and tools like this public domain slider and let them determine for themselves:

<http://www.librarycopyright.net/resources/digitalslider/index.html>

You don't want to be put in a position to apply or interpret law.

Post a copyright disclaimer by your copier and position the copier out of your line of site!



Interesting library copyright trivia

- Fan fiction that is a derivative of a copyrighted work and not expressly permitted by the creator, is technically a copyright violation. Most authors do not pursue it as fan fiction is not sold and may help promote the original work. No civil lawsuit has made it all the way to court to settle the issue.
- Orphan works are the untouchables of the library world
- Most of our materials are copyrighted
- Titles of books are not protected, which is why we see repeats.
- Not everything can be copyrighted!
 - Ideas, procedures, methods, systems, processes, concepts, principles, discoveries - a list of ingredients



Best practices in the library profession

CODE OF BEST PRACTICES IN FAIR USE FOR ACADEMIC AND RESEARCH LIBRARIES;;

<http://www.arl.org/storage/documents/publications/code-of-best-practices-fair-use.pdf>

Rachel Bridgewater's guide to copyright and fair use: <https://guides.pcc.edu/copyright>

ALA on fair use: <http://libguides.ala.org/copyright/fairuse>

CONTU guidelines for Interlibrary loan photocopying (a small portion of a huge document):

<http://www.ala.org/advocacy/sites/ala.org.advocacy/files/content/copyright/GLsInterlibLoan.pdf>

MLA (Music Library Association) best practices:

https://www.musiclibraryassoc.org/BlankCustom.asp?page=copyright_resources