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Crossing the Line?: Copyright for Libraries

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©rossing the line? Copyright for libraries

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DISCLAIMER: This presentation is not intended to be legal advice. Every case is different – be sure to consult a lawyer for your particular situation.

Virginia Library Association Paraprofessional Forum, May 20, 2013

Some material previously in “What can I do with this? Deciphering copyright and license notices” by Benjamin Keele and Fred Dingledy, http://scholarship.law.wm.edu/libpubs/28/
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What is copyright?

- The bundle of sticks
  - Reproduction
  - Derivative works
    - e.g., translations, remixes, documentaries based on archival footage
  - Distributing copies to public
  - Public performance or display
What is copyrightable?

- 17 USC § 102 - “Fixed in a tangible medium of expression"
- Books, poems, music, plays, choreography, artwork, videos, audio recordings, architectural works
- Can’t copyright ideas
- Can’t copyright facts
Infringement

- Using a right without the copyright holder’s permission or paying royalties

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Fair Use

• 17 USC § 107 – four factors:
  ◦ Purpose and character of use
  ◦ Nature of work
  ◦ Amount and substantiality of portion taken
  ◦ Effect of use upon market for work

• Case-by-case
More on fair use

- Commercial or non-commercial use?
- Limit distribution
- Easy to get permission?
- Everyone doesn’t get “archival” copy

- Non-profit education
- Classroom guidelines
- E-reserve of print scans
- Non-textbooks
- Under appeal to 11th Circuit
Cambridge Univ. Press v. Becker (cont.)

- Ease of purchase
- Limited access
- Narrowly tailored
- User reminders
- No user monitoring required
- De minimis
Fair use best practice codes

- Center for Social Media – Fair Use
  - [http://centerforsocialmedia.org/fair-use#node-1647](http://centerforsocialmedia.org/fair-use#node-1647)

The library/archive exception

- 17 USC § 108
- Who can use it?
  - Copying must be non-profit
  - Collection must be available to non-members
The library/archive exception

- Short version:
  - Can make copy if to preserve or replace & if you can’t buy it at reasonable price
  - Must include copyright warning or notice that item is protected by copyright
  - Digital copies can only be accessible on library premises
The library/archive exception

- **Patron request**
  - Must become patron property
  - Must only be for patron’s private use
  - Must display copyright warning
  - Entire book or journal issue (*rare*): can’t get copy at reasonable price

- **ILL copies**
  - Making a request
    - Patron request + statement of compliance
  - Filling out request
    - Get statement of compliance
So, what do © notices mean?

- Short answer: not much
- Copyfraud
Give ‘em an inch…

- Nature
  http://www.nature.com/info/legal_notice.html

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Robert J. Meyers

Mr. Chairman and Members of the Subcommittee, thank you for the opportunity to discuss with you today the potential for regulation of greenhouse gases (GHGs) under the Clean Air Act.
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- Museum Anthropology Review

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  - Serials: Near masthead

- Web:
  - Top/bottom of page
  - “About” page
  - Terms of Service
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On the Internet ≠ Free

(Note: Screenshot has been altered to remove thumbnail of Getty Images picture)
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Further Resources I


Further Resources II

- Creative Commons, http://creativecommons.org/
- Copyright Term and Public Domain in the U.S., http://copyright.cornell.edu/resources/publicdomain.cfm
Further Resources III

- University of Minnesota Libraries: Copyright Information and Resources, [http://www.lib.umn.edu/copyright/](http://www.lib.umn.edu/copyright/)
- University of Texas Libraries Crash Copyright Course – Copyright in the Library, [http://copyright.lib.utexas.edu/l-intro.html](http://copyright.lib.utexas.edu/l-intro.html)
Further Resources IV

Questions? & Thanks!

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