



# Copyright Quick Reference

Dig Deeper

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## Copyright Basics

Copyright is the legal right granted to a creator of a work to the exclusive publication, production, sale or distribution of it. Copyright laws are based on the concept that someone who creates a tangible work deserves to be compensated for it, thus promoting new work and benefiting society as a whole. Therefore the laws are designed to protect the creator's right to compensation and to control how his or her work is used.

Unlike the term "intellectual property," which can refer to intangible items, items which are copyrighted must be tangible. Therefore an oral folktale isn't protected by copyright until its written down or recorded. In addition, for something to classify as copyrightable it must be inherently creative. To write down a fact is not copyrightable, but a clever collection of facts or work accumulating such facts might be copyrightable.

Thus nearly every original tangible item is copyrighted. Copyrights begin upon creation of a work in tangible form. That work does not have to be registered, or protected by a symbol (although copyright

lawyers recommend it).

Sometimes it is easier to look at what is not protected by copyright. The following is a list of items that are excluded according to the U.S. Copyright Office:

- Works that have not been fixed in a tangible form of expression.
- Titles, names, short phrases, and slogans; familiar symbols or designs; mere variations of typographic ornamentation, lettering, or coloring; mere listings of ingredients or contents.
- Ideas, procedures, methods, systems, processes, concepts, principles, discoveries, or devices—as distinguished from a description, an explanation, or an illustration.
- Works consisting entirely of information that is common property and contains no original authorship, such as standard calendars, height and weight charts, tape measures and rulers, and lists or tables taken from public documents or other common sources.

\*\*\*Note: Some of these items are

protected under other intellectual property regulations, such as patents.

In addition, items become available for use when they enter the public domain. However, not many items fall into this category as one might think. The U.S. Copyright Office defines public domain as:

- Works published before January 1, 1923.
- Works published between 1923 and 1978 that did not contain a valid copyright notice.
- Works published between 1923 and 1978 for which the copyright was not renewed.
- Works authored by employees of the federal government.
- Works that the copyright owner has freely granted to the public domain.

However, any item published after January 1, 1978, will not pass into the public domain until 95 years after publication. This is important to note since almost all new technology and online works will not be available to the public domain for many years.

## What Is Fair Use?

*Many teachers have heard the term "Fair Use" and take that to mean they can use items for educational purpose. In truth the "Fair Use" doctrine was created to allow the use of copyrighted works for criticism and commentary, parody, news reporting, research and scholarship, and classroom instruction.*

*However, the guiding idea behind Fair Use is that by using the work one is not diverting monetary income from the creator.*

*Four primary guidelines can be used to determine whether one is operating fairly under the Fair Use doctrine.*

*1. The purpose and character of the*

*intended use.*

*2. The nature of the copyrighted work.*

*3. The amount and substantiality of the portion used in relation to the copyrighted work as a whole.*

*4. The effect of the use upon the potential market for or value of the copyrighted work.*

## Preventing Plagiarism

*In this day and age adults and students alike have easy access to research and information via the Internet. However, that easy access sometimes proves too tempting to simply cut and paste for reports and projects. To avoid plagiarism follow these simple tips:*

- *Identify and evaluate sources of information as you gather them; always give credit where credit is due.*
- *All ideas, judgments, and inferences of others that are not your own must be attributed.*
- *Ask permission to use someone else's work; a polite request is often granted.*
- *Carelessness in failing to use quotation marks is no excuse, look up questions online at sites like [www.mla.org](http://www.mla.org).*
- *Learn the laws of copyright, fair use, and intellectual property.*
- *Realize that writing is supposed to be original thinking—that takes time and creativity.*
- *Cutting and pasting into papers is known as e-plagiarism, aka cheating!*

Any form of plagiarism is dishonest. It could harm your reputation or worse. Instead honor the original creator by citing them.

### Technology, Copyright and Fair Use

Copyright codes and law were written before many new technologies ever came into existence. With the Internet, many resources are much more easily found and “used.” However, the Internet is not in the public domain. In fact because the Internet is a global resource, The Berne Convention for the Protection of Literary and Artistic Works, an international treaty, was designed to protect copyrighted work found there. The basic premise of the treaty is that the country the work was created in is the one whose copyright code applies.

So how does one apply concepts

like Fair Use and copyright restrictions to multimedia resources? A good rule of thumb is to relate the resource to a print resource and follow those rules. Also remember, copyright law protects at least some aspect of the program code, structure, content, organization, and user interface of every computer software program unless it has been released into the public domain. Also freeware *is not* in the public domain.

Due to the advances in technology, groups have been attempting to come together to establish guidelines on Fair Use. In 1994

the Conference on Fair Use (CONFU) was established by the U.S. Department of Commerce in an attempt to clarify Fair Use concerning technology between interested parties. Despite spending over two years drafting guidelines in three areas: digital images, distance learning, and educational multimedia, the participants were unable to reach a consensus on them. Thus again, Fair Use law is being written through trial and error and court cases.