

Copyright Case Studies

- 1. An instructor would like to compile articles from journals, chapters from textbooks, and various other sources and create a coursepack of readings that students will access via I-Learn. Where can he or she go to find more information about how copyright applies when creating course readings?**
- 2. An instructor has found an article in a professional journal that is particularly useful for a class he teaches every semester. He would like to include the article as reading this semester, and then again next time he teaches the course. Is this a fair use?**
- 3. An instructor uses some of the papers submitted by the students in her class to demonstrate examples of work. Does the instructor need permission from each student to use their paper and share it with others?**
- 4. In the attempt to lower the cost of education, a professor scans several chapters from an expensive textbook for her course and uploads a PDF file of the chapters to his course for students to read. This is the only material the students need from this particular textbook to complete class assignments. Is this a fair use?**
- 5. An instructor wants to stream a copy of a film and post a link in her password-protected I-Learn course.**
- 6. A faculty member wishes to use several clips from a movie or television show to demonstrate situations pertinent to the course and place them in I-Learn. Is this allowed?**
- 7. An instructor wants to include photographs or music in a PowerPoint presentation for his class lecture. Does he need to seek permission from the copyright owners to do so? What if he wants to make changes to the photograph or music file?**
- 8. A faculty member's departmental library holds several older VHS videocassettes that are used regularly for classroom presentations. Some of the videos are no longer available commercially in either VHS or DVD formats. The faculty member wants to maintain this collection by uploading the videos to Kaltura.**

Approaches to the scenarios:

BYUI acknowledges the University Louisville for the basis of these scenarios.

1. To assist with copyright issues, BYU-Idaho provides an Intellectual Property Rights Specialist to inform and educate the university community about the application of copyright principles and offer help and guidance to the faculty and students in resolving copyright questions. Nate Wise can be found in McKay 120C.
2. Linking to the article from a library database is the best way to make this content available. The repeated use of a copyrighted work, from term-to-term, requires particular scrutiny in a fair use evaluation. Such a use explicitly relates to "market effect", the fourth factor in the fair use analysis. This factor requires one to consider the impact of using a copyrighted work on any market for the original article, including the permissions market. Repeated use, as well as class size, may impact this consideration. This is one of the reasons we have entered into the Annual Academic License with the Copyright Clearance Center. We may already have permission to use the article in your course, so check with the Library to verify coverage.
3. The students' papers are copyrighted and each of the students will own the copyright to their papers. The instructor will need permission from each student to use the papers outside a classroom critique or peer review. If such outside or continued use is planned, it is recommended that she note such in the class syllabus and obtain permission from each of the students to use the work again during any subsequent academic terms.

Please note: Certain uses of student work may require compliance with the Family Educational Rights Privacy Act (FERPA).

4. This scenario is unlikely to be considered a fair use. A four factor analysis of these circumstances would reasonably conclude that the market is directly affected by this activity. Students who would otherwise be expected to purchase the book no longer need to and the publisher is thus deprived of sales or royalties via a copyright clearance service. Adopting the text, seeking permissions, or locating an alternative sources of content would be the preferred options in such cases.
5. In the face-to-face classroom setting showing a film is clearly allowable under the provisions of Section 110(1) in U.S. copyright law. However, in the online teaching environment, streaming an entire film online is outside the scope of what is allowable under the law. The library has several resources available for licensed films that can be shared in online environments. Otherwise the instructor can conduct a four factor fair use analysis to determine whether this is an allowable use. Though the circumstances weigh against fair use.
6. The use of the clips must be related to the course and the use of the clips would need to have importance in meeting the course's objectives. The four factor fair use analysis would again have to be applied in this case. In this scenario, the fact that these were clips not the entire movie or show would not necessarily make the case for fair use, but weigh in its favor. In general, limited use, both in amount and length, of video clips weighs in favor of fair use for courses. However, just breaking a full work into smaller clips and placing them all into the same class would have the same weight against fair use as would using the entire work.

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7. In this scenario if the use occurs in the face-to-face classroom, the instructor does not need to seek permission to use the copyrighted photographs and music files. Displaying or performing copyrighted works for classroom purposes is allowed under [section 110 \(1\) of Title 17 \(U.S. Copyright Law\)](#) provided the photographs and music were legally obtained and the work was **NOT** produced or marketed primarily for performance or display as part of mediated instructional activities transmitted via digital networks.

If this PowerPoint is posted on I-Learn, a fair use analysis should be conducted. Assuming the presentation itself is original, the deciding factor may lie in the amount of work used, its educational purpose, and if the use is transformative. Other alternatives include using stock photos/images from a library licensed resources or using images from a variety of copyright free websites or services, creating original images or linking to existing images on other sites.

8. When audiovisual media is commercially available in digital formats converting an analog version to digital format is not good practice and the fact that a video is out-of-print and no longer distributed commercially isn't, alone, sufficient reason to assume copying or converting is permissible. It is an element of the market effect of a use to consider, in a thorough four factor analysis of fair use. In this case, digital versions should be purchased or permissions sought to convert the VHS tapes.

For more information on using content in courses visit:
<http://www.byui.edu/copyright/resources/using-content>