

Copyright in the Film Studies Classroom

Andy Horbal
University of Maryland
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Copyright Basics

- Exists to “[t]o promote the Progress of Science and useful Arts” ([U.S. Constitution](#))
- Copyright protects “original works of authorship fixed in any tangible medium of expression” ([17 U.S. Code § 102](#))
- Requirements: independent creation, modest amount of creativity
- Not required: novelty, intent to be original, © symbol

Exclusive Rights

1. Reproduce the copyrighted work
2. Prepare derivative works based upon the copyrighted work
3. Distribute copies to the public by sale or other transfer of ownership, or by rental, lease, or lending
4. Perform the copyrighted work publicly
5. Display the copyrighted work publicly (includes “the individual images of a motion picture or other audiovisual work”)
6. Perform the copyrighted work publicly by means of a digital audio transmission ([17 U.S. Code § 106](#))

Exceptions for Educators:

§ 110 (1)

“[P]erformance or display of a work **by instructors or pupils** in the course of **face-to-face teaching activities** of a **nonprofit educational institution**, in a **classroom or similar place devoted to instruction**, unless, in the case of a motion picture or other audiovisual work, the performance, or the display of individual images, is given by means of a copy that was not lawfully made under this title, and that the person responsible for the performance knew or had reason to believe was not lawfully made” ([17 U.S. Code § 110](#))

Exceptions for Educators:

§ 110 (2): The TEACH Act

“[E]xcept with respect to a work produced or marketed primarily for performance or display as part of mediated instructional activities transmitted via digital networks, or a performance or display that is given by means of a copy or phonorecord that is not lawfully made and acquired under this title, and the transmitting governmental body or accredited nonprofit educational institution knew or had reason to believe was not lawfully made and acquired, the performance of a nondramatic literary or musical work or reasonable and limited portions of any other work, or display of a work in an amount comparable to that which is typically displayed in the course of a live classroom session, by or in the course of a transmission, if—

- (A) the performance or display is made by, at the direction of, or under the actual supervision of an instructor as an integral part of a class session offered as a regular part of the systematic mediated instructional activities of a governmental body or an accredited nonprofit educational institution;
- (B) the performance or display is directly related and of material assistance to the teaching content of the transmission;
- (C) the transmission is made solely for, and, to the extent technologically feasible, the reception of such transmission is limited to—
 - (i) students officially enrolled in the course for which the transmission is made; or
 - (ii) officers or employees of governmental bodies as a part of their official duties or employment; and
- (D) the transmitting body or institution—
 - (i) institutes policies regarding copyright, provides informational materials to faculty, students, and relevant staff members that accurately describe, and promote compliance with, the laws of the United States relating to copyright, and provides notice to students that materials used in connection with the course may be subject to copyright protection; and
 - (ii) in the case of digital transmissions—
 - (I) applies technological measures that reasonably prevent—
 - (aa) retention of the work in accessible form by recipients of the transmission from the transmitting body or institution for longer than the class session; and
 - (bb) unauthorized further dissemination of the work in accessible form by such recipients to others; and
 - (II) does not engage in conduct that could reasonably be expected to interfere with technological measures used by copyright owners to prevent such retention or unauthorized further dissemination” ([17 U.S. Code § 110](#))

Exceptions for Educators:

§ 107: Fair Use

“[T]he fair use of a copyrighted work, including such use by reproduction in copies or phonorecords or by any other means specified by that section, for purposes such as criticism, comment, news reporting, teaching (including multiple copies for classroom use), scholarship, or research, is not an infringement of copyright.” ([17 U.S. Code § 110](#))

Exceptions for Educators:

§ 107: Fair Use (cont.)

- 1) The purpose and character of the use, including whether such use is of a commercial nature or is for nonprofit educational purposes
- (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 ([17 U.S. Code § 107](#))

More Information About Exceptions for Teaching

<http://blogs.library.duke.edu/scholcomm/2006/12/26/copyright-exceptions-for-teaching/>

Digital Millennium Copyright Act (DMCA)

- Makes it illegal to circumvent technological copy protection measures (common on DVDs and Blu-Ray discs)
- Every three years the Librarian of Congress issues list of exemptions
- Film Studies professors permitted to make compilation DVDs since 2006; professors and students given blanket permission to override copy protection measures applied to DVDs and online videos since 2009
- Rulemaking for 2015 currently underway

General Guidelines

- Assume that anything created after 1923 is under copyright
- If it won't ever leave your classroom, it's probably okay (**exception:** teaching materials)
- When relying on fair use, use only as much of a copyrighted work as you need
- When in doubt, ask for permission!

ELMS Media Reserves

User Agreement

I, hereby certify that I have read and understand the University of Maryland Libraries' [copyright guidelines](#) for electronic reserves. I further certify that my request meets the description of at least one the following category of materials:

- I. Use of the materials qualifies as a "Fair Use" under copyright law
- II. The materials are made available under a license that authorizes the University to make them available through e-reserves
- III. The owner of copyright has given permission for the materials to be made available through e-reserves
- IV. The materials have entered the public domain or are not protected by copyright (e.g. works created by federal government employees in the scope of their employment)
- V. Copyright of the materials is owned by the instructor or the University (e.g., course syllabi, reading lists, lectures, works required to be prepared under sponsored research agreements, University committee reports)

*It is always a good idea to keep documentation of your copyright, permission, or fair use analysis on file. If you have any questions or concerns about copyright or fair use, please contact nonprint@umd.edu

Case Studies

1. Can I use my Netflix Instant account to screen a film to my class?
2. Can I incorporate film clips into a PowerPoint presentation I'm giving at a conference?
3. Can the student group I advise screen *Raiders of the Lost Ark* at an upcoming event?
4. Will my students be able to post their "video essays" on YouTube after the semester is over?

Questions? Contact Me!

Andrew Horbal
Media Resources Librarian
0300 Hornbake Library
University of Maryland
College Park, MD 20742
(301) 405-9227
ahorbal@umd.edu