

# Information Faculty Should Know About Copyrights

The copying standards outlined in this guide are based on the laws involving copyrighted works and restricted materials, as well as MATC's guidelines in dealing with copyrighted materials. The lists of copyrighted works and legal restrictions provided here are not exhaustive and are provided as examples only. It is very important that you are aware of the legal issues involved when copying or digitizing copyrighted and restricted materials.

## **What Is a Copyright?**

A copyright is a form of protection provided to the creators of original works by the laws of the creator's resident country and through international treaties. Copyright owners have the exclusive right to reproduce or modify their copyrighted work. They may, however, grant permission to others who wish to reproduce the copyrighted work. Photographers, artists, authors, software developers, publishers, singers, writers and composers can all be copyright owners.

## **Reproducing Copyrighted Material at MATC**

MATC requires that instructors receive written permission from the copyright owner before reproducing or modifying any copyrighted material. For your convenience, a Permission Request Form is provided in this guide.

## **The Copyright Notice**

Copyright owners may place a copyright notice (for example, ©2007 Jane Doe) on their works. However, this notice is not required under the law. Works are still considered copyright-protected without depicting a copyright notice.

## **Works Protected by Copyright**

Examples of copyrightable materials include:

- Graphics
- Video
- Newspapers
- Books
- Photographs
- Audio, Music and Lyrics

## **Copyright Owners**

If you are the copyright owner, ownership and identification must be verified before MATC will reproduce any copyrighted material. Please note that mere ownership of a physical book, manuscript, video, photograph, computer software program or a copy of such items does not give the possessor of these items copyright ownership or the right to copy or modify them.

## **What Is Restricted Material?**

Materials that are of monetary value, negotiable instruments or items that can be used for identification purposes are considered restricted materials. It is the MATC policy to uphold the law against counterfeiting materials that are negotiable instruments or used for identification purposes. Additionally, under no circumstance may restricted material be scanned.

## **Reproducing Professional Photographs and Video**

It is illegal for anyone to reproduce or assist in reproducing, in any manner or media, a professional photograph and video without the express written permission of the copyright owner, usually the photographer that took the photograph or video, or studio that hired the photographer.

Just like any other copyright-protected works, photographers have the exclusive right to reproduce or modify their photographs and videos. Please note that mere ownership of a copy or print of a professional photograph or video does not give you the right to copy or modify it. You have simply purchased the photograph or video, not ownership of the copyright.

MATC respects copyright ownership rights and will require that all instructors receive and provide MATC with written permission from photographers or studios before reproducing any professional photographs or videos. Examples of what might be professional photographs include:

- Those depicting a standard copyright notice (such as, ©2007 Jane Doe Photography).

- Photographs that appear professional due to style or media (such as, glossy prints, canvas and so on).

- Photographs containing digital watermarks or logos to visually notify or prohibit unauthorized use (such as stock demos).

Therefore, if a photograph contains any of the above characteristics, MATC will not reproduce or allow you to use its equipment to reproduce it, unless you can provide written permission from the photographer or studio that took the photograph. This includes manipulating or reproducing the photograph or video in black and white or color, in or on any media (hard copy, digital, online course and so on), or by any means (including scanning, photocopying, and so on).

When creating your own podcast, it is important to make sure all necessary rights and permissions are secured for the material included in your podcasts. This is relatively easy if you create all of the material that is included in your podcast but can become progressively more complex the more you include material created by other people.

As a general rule, if you incorporate text that has been written by someone else into your podcast-text that appears either on a blog, in a book, a journal, magazine or newspaper (or whatever) – you need the express and specific permission of the person who owns copyright in that material (note that sometimes the copyright owner is different to the original writer.

## **What is “Fair Use” of Copyrighted Material?**

Fair use is a legal principle that provides certain limitations on the exclusive rights of copyright holders. Section 107 of the Copyright Act sets forth the four fair use factors which should be considered in each instance:

1. The purpose and character of the use:
  - a. Is the new work merely a copy of the original? If it is simply a copy, it is not as likely to be considered fair use.

- b. Does the new work offer something above and beyond the original? Does it transform the original work in some way? If the work is altered significantly, used for another purpose, appeals to a different audience, it is more likely to be considered fair use.
    - c. Is the copyrighted work for nonprofit or educational purposes? The use of copyrighted works for nonprofit or educational purposes is more likely to be considered fair use.
- 2. The nature of the copyrighted work.
  - a. Is the copyrighted work published or unpublished? Unpublished works are less likely to be considered fair use.
  - b. Is the copyrighted work out of print? If it is, it is more likely to be considered fair use.
  - c. Is the work factual or artistic? The more a work tends toward artistic expression, the less likely it will be considered fair use.
- 3. The amount and substantiality of the portion use:
  - a. The more you use, the less likely it will be considered fair use.
  - b. Does the amount you use exceed a reasonable expectation? If it approaches 50 percent of the entire work, it is likely to be considered an unfair use of the copyrighted work.
  - c. Use only enough to make your point.
- 4. The effect of use on the potential market for the copyrighted work:
  - a. The more the new work differs from the original, the less likely it will be considered an infringement.
  - b. Does the work appeal to the same audience as the original? If the answer is yes, it will likely be considered an infringement.
  - c. Does the work contain anything original? If it does, it is more likely the use of the copyrighted material will be seen as fair use.

### **What is the face-to-face teaching “fair use” exemption?**

Section 110(1) of the Copyright Act permits “performance 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.” If you meet the requirements of this section, your performance or display does not need to meet the requirements of fair use. Thus, Section 110(1) exemption permits the instructor to play a rental video in class if the following requirements are met:

- The performance of the video is part of the teaching activity of the class;
- The class is part of the regular curriculum;
- The entire audience is involved in the teaching activity;
- The entire audience and the teacher are in the same room or general area; and
- The performance takes place in a classroom or similar place devoted to instruction, such as a school library, gym, auditorium or workshop.

This exemption applies only to the performance or display of lawfully made copies; if the copy was not legally made, it cannot be performed or displayed in the classroom.

## **What is the distance education “fair use” exemption?**

Under Section 110(2) of the Copyright Act, many performances or displays that would be permitted in the classroom would also be permitted to be transmitted by closed-circuit television or by the internet to students in remote locations.

Under the TEACH Act, a 2002 amendment to the Copyright Act, the distance education exemption generally permits instructors to distribute on-line the same materials that the instructor could present in face-to-face teaching (see above). Distribution under the TEACH Act is subject to restrictions.

The following categories of materials may be distributed under the authority of the TEACH Act:

- Entire performances of non-dramatic literary and musical works;
- Reasonable and limited parts of dramatic literary, musical or audiovisual works; and
- Displays of other works, such as images, in amounts similar to typical displays in face-to-face teaching.

The following materials are specifically excluded from distribution under the TEACH Act:

- Material specifically marketed for classroom use for digital distance education;
- Copies the instructor knows, or should know, have been made illegally;
- Textbooks, course packs, electronic reserves or similar materials typically purchased individually by students for independent review outside the classroom.

In using materials under the TEACH Act, the instructor must also ensure that:

- Access to the materials is restricted to students registered in the course;
- Access to the materials is terminated at the end of the course;
- The materials are used at the direction of the instructor;
- The materials used are directly related and of material assistance to the course content; and
- The materials include the following notice that the materials are protected by copyright: “The materials used in this course are protected by copyright, and they are presented here for use only by students registered in this course.”

### **Additional Information**

For more information on the laws regarding copyrights, contact the United States Copyright Office at 1.202.707.3000. A helpful telephone number: Copyright Clearance Center (CCC) 1.978.750.8400, Fax 1.978.750.4470

# Copyright Guidelines

TECHNOLOGY	PERMISSIBLE	VIOLATION	SOLUTION
Video or DVD use	<ul style="list-style-type: none"> <li>When used for instruction, rental tapes, DVDs, and tapes made from television broadcasts.</li> </ul>	<ul style="list-style-type: none"> <li>Used for entertainment or reward, especially in a place not dedicated to face-to-face instruction (cafeteria, multipurpose room) No” movie clubs” or movies shown as” daycare” during open house, etc.</li> </ul>	<ul style="list-style-type: none"> <li>Work to develop an instructional use for the material: a study of genres or a discussion of protagonist/antagonist.</li> <li>Acquire genuinely instructional media. This is often also engaging.</li> <li>Get a license for entertainment.</li> </ul>
Copy machine	<ul style="list-style-type: none"> <li>A copy for every student when used for instruction within Fair Use guidelines, for example, 10 percent or 1,000 words whichever is less.</li> </ul>	<ul style="list-style-type: none"> <li>Consumables being copied.</li> <li>The work being copied is not a legitimately acquired original copy</li> </ul>	<ul style="list-style-type: none"> <li>Have teachers submit list of consumables they need and buy them.</li> <li>Secure license for copying material (course packs).</li> </ul>
Posting music on the Internet on a site open to the public (for example, school home page or teacher page)	<ul style="list-style-type: none"> <li>Music may be posted if the rights are secured or if the school owns the rights (for example, an original work).</li> <li>Music pieces tied to instruction (for example, music history) may be posted as part of an online course or unit behind a password-protected page while that course or unit is being taught, so long as the requirements of the TEACH Act are being met (<a href="http://www.utsystem.edu/OGC/IntellectualProperty/teachact.htm">http://www.utsystem.edu/OGC/IntellectualProperty/teachact.htm</a>)</li> </ul>	<ul style="list-style-type: none"> <li>Popular commercial titles are almost never allowed to be legitimately posted.</li> <li>Permission may be difficult to secure, especially in a short time frame.</li> </ul>	<ul style="list-style-type: none"> <li>Encourage student-created works with Garageband, Movie Maestro, Acid Loops, etc.</li> <li>Use royalty-free music created and sold for that purpose.</li> <li>Use public domain or music posted for open use by the rights holder.</li> </ul>
Images, music, and video used in multimedia projects	<ul style="list-style-type: none"> <li>Images, music, and video may be used in student multimedia work without permission so long as the Fair Use multimedia guidelines. (<a href="http://www.utsystem.edu/OGC/IntellectualProperty/ccmcguid.htm">http://www.utsystem.edu/OGC/IntellectualProperty/ccmcguid.htm</a>)</li> </ul>	<ul style="list-style-type: none"> <li>Non-instructional uses (entertainment, clubs, dances, yearbooks, etc.) are not covered.</li> </ul>	<ul style="list-style-type: none"> <li>Buy rights for entertainment or performance.</li> <li>Use music or images from a licensed collection.</li> </ul>
Digitizing video (media)	<ul style="list-style-type: none"> <li>Students may legitimately incorporate media into their multimedia projects as long as it is from a legitimate original source.</li> <li>Students do not have the right to defeat anti-piracy encryption technology.</li> </ul>	<ul style="list-style-type: none"> <li>Copies for noninstructional projects are not allowed.</li> <li>Students may have the knowledge but not the legal permission to defeat anti-piracy protections (Interestingly, librarians do have rights in this area for evaluation purposes).</li> </ul>	<ul style="list-style-type: none"> <li>Erase or destroy illegitimate copies.</li> <li>Do not permit school equipment to be used for impermissible copying. If you install DVD or CD copying machines—which have many legitimate instructional uses—consider creating a contract for teachers and students who have access to the machine.</li> </ul>
Posting copyrighted material on the Internet	<ul style="list-style-type: none"> <li>An administrator or teacher may do this if the material is the type of material typically used in face-to-face instruction, is an integral part of the instruction, is behind the college learning management system --Blackboard at MATC, password-protected site, is managed (that is, when the topic is no longer under study, it is removed) and all the other requirements of the TEACH Act are met.</li> <li>Archival posting is not permissible.</li> </ul>	<ul style="list-style-type: none"> <li>The material is not password protected.</li> <li>The material will be up long after it is relevant.</li> <li>The material was not legitimately acquired (for example, pirated material).</li> </ul>	<ul style="list-style-type: none"> <li>Make sure all copyrighted material is removed from non-password-protected areas on the school or district Web site.</li> <li>Monitor material behind the password to make sure it is relevant to the current instructional program.</li> </ul>

<p>Downloading presentations from the Web for instruction</p>	<ul style="list-style-type: none"> <li>• Material from public sources that has been legally uploaded onto the Internet may often be used for instruction without payment or permission, with due credit given.</li> </ul>	<ul style="list-style-type: none"> <li>• Material in the presentation must not be from proprietary sources (for example, HBO). Material not legitimately acquired may not be used.</li> <li>• Unauthorized material posted by someone else for download is still prohibited.</li> </ul>	<ul style="list-style-type: none"> <li>• Check the bibliography or reference page for the work if it looks like resources are not original—if it doesn't have proper citations, use common sense.</li> <li>• If the work is original and posted, it's often usable ("Netiquette" would require an e-mail asking permission and giving thanks).</li> </ul>
<p>Copying CDs with lessons and media resources</p>	<ul style="list-style-type: none"> <li>• Gathering resources, including videos, sounds, and images, into an authoring or presentation program is perfectly acceptable if sanctioned by the license agreement.</li> <li>• Most media libraries with download functions permit this—sharing best practices between teachers is a good thing.</li> </ul>	<ul style="list-style-type: none"> <li>• The resources are not licensed by your school (or are not in the public domain). If licensed, the license must be current. When it expires, the resources are not usable.</li> <li>• If the CD came originally from another site, it should bear closer scrutiny.</li> <li>• Teachers have wide latitude in their classes, but distribution is a different issue</li> </ul>	<ul style="list-style-type: none"> <li>• Allocate money in the budget for media or library licenses.</li> <li>• Make sure material being duplicated is either public domain or covered by licensing—duplication is an area where educational rights are more limited.</li> </ul>
<p>Copying books</p>	<ul style="list-style-type: none"> <li>• Libraries are able to replace lost or damaged works by copying if an unused replacement cannot be obtained at a reasonable price.</li> </ul>	<ul style="list-style-type: none"> <li>• Individual students or classroom teachers are not allowed to copy lost or damaged books.</li> </ul>	<ul style="list-style-type: none"> <li>• Budget for a certain amount of lost classroom materials each year.</li> <li>• Hold students accountable for damages to library properties.</li> </ul>

## MATC Copyright Permission Request Form

This form is designed to assist you in obtaining permission from the copyright owner. We sincerely appreciate your understanding and cooperation in complying with MATC's Copyright Guidelines.

\_\_\_\_\_  
To (Copyright owner)

\_\_\_\_\_  
Fax

I, \_\_\_\_\_ request permission to reproduce the item(s) described below for the following uses (check all intended uses):

Online Course Material  Video  Streaming Media

### Description of Item to Be Copied

\_\_\_\_\_  
Title

\_\_\_\_\_  
Copyright date

\_\_\_\_\_  
Number of copies/Users/Students

In the case of photographs or videos, describe the photo subject and/or pose:

\_\_\_\_\_  
Describe in detail how the copies will be used and distributed. You may attach additional sheets as necessary.

### Copyright Permission Approval

(Copyright owner response. Check only one.)

I, the copyright owner, grant permission for the described item(s) to be copied, subject to the following conditions (number of copies, specific usage, etc.):

Please grant permission by \_\_\_\_\_ date      Permission duration/expires \_\_\_\_\_ date

I, the copyright owner of the item(s) described above hereby deny request to reproduce such items.

\_\_\_\_\_  
Copyright owner name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
date

\_\_\_\_\_  
Address

\_\_\_\_\_  
City/State/ZIP

\_\_\_\_\_  
Telephone

### Verification of Permission to Use Copyrighted Material

I, the undersigned, acknowledge that I have obtained the necessary permissions from the appropriate copyright owners for [online course material, video, streaming media] (the "Copyrighted Materials") and have completed the MATC Copyright Permission Request Form. My use of the Copyrighted Materials will not infringe, misappropriate or otherwise violate the intellectual property rights of any third party.

I acknowledge that I have reviewed MATC's Copyright Guidelines entitled "Information Faculty Should Know About Copyrights" and that I understand the matters discussed therein. I further understand that not following the Copyright Guidelines could result in liability to me and/or to MATC.

\_\_\_\_\_  
Instructor's Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Staff ID

## Copyright or Trademark Information and Release Form

REPRODUCTION OF THIRD PARTIES' WORKS THAT ARE SUBJECT TO COPYRIGHT PROTECTION CONSTITUTES COPYRIGHT INFRINGEMENT UNLESS A LICENSE TO REPRODUCE SUCH WORKS HAS BEEN OBTAINED OR ANOTHER EXCEPTION TO COPYRIGHT INFRINGEMENT EXISTS.

You have asked MATC to make copies and or stream video in online courses (which for purposes hereof includes copying, faxing or scanning) for you of the materials identified below (the "material"). MATC will not copy the material which it knows is covered by the copyright of a third party and for which you do not have permission to copy or the copying of which is not fair use, nor will it knowingly copy material (such as advertising materials) to be used for trademark infringement. Before MATC will make copies of the material, you must confirm to MATC that you have the right to have MATC copy the material.

In this regard, you, the undersigned, declare under penalty of perjury, represent and warrant to MATC that (a) you are at least 18 years of age, (b) your intended use of the materials will not confuse or mislead the public in any way, and (c) at least one of the following is true: (i) you own the copyright in the material; or (ii) you have been authorized as the agent by the owner of the copyright in the material to copy the material; or (iii) you have been granted a license by the owner of the copyright in the material to copy the material; or (iv) you are a teacher or student (or parent or guardian of a student) and are requesting copies of the material for educational purposes in a not-for-profit educational institution; (v) the material is in the public domain.

I, the undersigned, acknowledge that I have obtained the necessary permissions from the appropriate copyright owners for [online course material, video, streaming media] (the "Copyrighted Materials") and have completed the MATC Copyright Permission Request Form. My use of the Copyrighted Materials will not infringe, misappropriate or otherwise violate the intellectual property rights of any third party.

I acknowledge that I have reviewed MATC's Copyright Guidelines entitled "Information Faculty Should Know About Copyrights" and that I understand the matters discussed therein. I further understand that not following the Copyright Guidelines could result in liability to me and/or to MATC.

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Instructor Signature

Today's Date

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Instructor's Name (print)

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Phone Number

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Address

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City, State, ZIP

Description of Material Being Copied:

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