Research, Rights, Reuse and Retention

Emily Finch
Scholarly Communication and Copyright Librarian--K-State Libraries

Ryan Otto
Scholarly Communication Librarian--K-State Libraries
DISCLAIMER

The information presented in this presentation is intended for informational purposes and should not be construed as legal advice. If you have specific legal questions pertaining to K-State, please contact the Office of General Counsel. Information received from the Scholarly Communication Librarian is not legal advice. The Scholarly Communication Librarian does not act as legal counsel to the university or any members of the university community.
Center for the Advancement of Digital Scholarship (CADS)

CADS@ksu.edu
Outcomes- What We Will Cover

→ What is Copyright?
→ Copyright vs. Plagiarism
→ How to Reuse Works Ethically and Legally
→ Publisher Contracts
→ Authors Rights and Embargos
→ Submitting your ETDR
Copyright

Why? What? How?
Copyright Services

https://www.k-state.edu/copyright/
Copyright Services

https://guides.lib.k-state.edu/UsingContent

Using Copyrighted and Library Content

Know Your Librarians; We’re On Your Side

Faculty at the Center for the Advancement of Digital Scholarship (CADS) and Christina Geuther are here to help you with questions you may have pertaining to copyright, reuse, fair use, permissions, and licensing. This guide will help you understand how to legally and ethically reuse content in different contexts. For more specific questions, you can contact them directly.

CADS can help when you have questions about U.S. copyright law, fair use, Creative Commons Licenses (CC), and other similar topics.
Why Copyright?

U.S. Constitution Article 1, Section 8, Clause 8 (Patent and Copyright) Clause

Promote the Progress of Science and Useful Arts

How?

"To promote the progress of science and useful arts, by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries."
What is Copyright?

To Reproduce & Make Copies

To Distribute Copies

To Prepare Derivative Works

To Perform Works Publicly by Means of Digital Audio Transmission

To Display Works Publicly

https://www.youtube.com/watch?v=2U81MTBg5tY
What is Protected?

Works MUST be:

- Literature
- Music
- Photography
- Other forms of creative expression

- Original
- Creative
- Fixed in a tangible medium of expression
  - Piece of paper
  - Recorded audio or video
  - Dry erase board
  - Etc.

[https://www.copyright.gov/circs/circ01.pdf](https://www.copyright.gov/circs/circ01.pdf)
What isn’t Protected?

❖ Facts & Data
❖ Ideas
❖ Names, slogans, symbols, short phrases
❖ Useful articles
❖ AI and Non-Human created content

A selfie taken in 2011 by Naruto, a monkey in Indonesia.
Credit...David Slaters/Caters News

How to Copyright?
A Hypothetical

What elements on the cookbook page are covered by copyright?

Betty Crocker Cookbook, page 203

Attribution AEnriquez on May 18, 2018. CC-BY
https://www.lib.umich.edu/copyright/presentations
Copyright vs Plagiarism
(Law vs. Ethics)

Copyright is a legal concept: it’s a codified right.

Plagiarism is an ethical issue.

Credit RyanMinkoff
Let’s Talk Attribution

**T** Name of the Material

**A** Author/Creator: Who created the content? (sometimes another entity listed pseudonym, company, etc.)

**S** Source: Where was it found? DOI, URL, Hyperlink

**L** License: when creating references include information on how the content is licensed and be specific!

https://creativecommons.org/use-remix/attribution/
“Furrgelen afterglow” by Lukas Schlagenhauf is licensed under CC BY-ND 2.0.

https://creativecommons.org/use-remix/attribution/
Who Holds Copyright?

Ownership and Transfer
Whose content is it anyway?

The first holder of the copyright is the author.

- The creator(s) of the work OR
  - In some cases, the creator’s employer (if the work was “made for hire”).
    - Routine job work.
    - Commissions.
    - Contract projects.

Authors can transfer or license any of their exclusive rights.
What is “made for hire?”

Was prepared by an *employee* acting within the *scope of employment*

OR

Is one of the nine types of works that a contract can turn into a work made for hire, and a contract was signed before the work was created.

- As a contribution to a collective work.
- As a part of a motion picture or other AV work.
- As a translation.
- As a supplementary work.
- As a compilation.
- As an instructional text.
- As a test.
- As an answer material for a test.
- As an atlas
Licenses

Contracts/agreements that permits authority to own, do, or use something.

agreement by Nhor from the Noun Project
Transfers of Rights

- Authors can transfer or license any of their exclusive rights, including portions of those rights.
- Licenses do not need to allow the transfer of each exclusive right, they set requirements, limitations, and terms for the rights transferred.
- Copyrights can also pass by “operation of law,” e.g., probate, bankruptcy, and corporate dissolution.
- Does transferring a physical object transfer copyright in that object?—No.
Public Licenses

- Allow copyright holders to grant licenses to the general public.
  - So that the copyright owner is the licensor and everyone else is the licensee.

CC licenses last until the work enters the public domain at the end of the copyright term. (Unless termination rights are exercised)
A Closer Look at Creative Commons

**Attribution**
Others can copy, distribute, display, perform and remix your work if they credit your name as requested by you.

**Derivative Works**
Others can only copy, distribute, display or perform verbatim copies of your work.

**Share Alike**
Others can distribute your work only under a license identical to the one you have chosen for your work.

**Non-Commercial**
Others can copy, distribute, display, perform or remix your work but for non-commercial purposes only.
Rights Map

- **All Rights Reserved**
- **Some Rights Reserved**
- **Public Domain**

Free for all to use.
Reusing Content: Framework and Tools

How to Navigate Use and Reuse.
A Framework For Using Content

1. Does it have copyright protection?
2. Does it have an existing license that covers my use?
3. Can I rely on an exemption, such as fair use?
4. Do I need to seek permission or purchase a license?
Does the work have copyright protection?

- Is the work protected?
  - Remember not all copyrighted works have the ©!
- Could it be in the public domain?

Current Term: Life of the Author +70  (Work for Hire: 120 years after creation or 95 after publication)

Copyright Slider: [https://librarycopyright.net/resources/digitalslider/index.html](https://librarycopyright.net/resources/digitalslider/index.html)
Cornell University Copyright Term and the Public Domain Chart: [https://copyright.cornell.edu/publicdomain](https://copyright.cornell.edu/publicdomain)

Images courtesy of [Jacklee](https://www.jacklee.com) at Wikimedia Commons.
Is there an existing license that covers my use?

- Read **all** terms and agreements
- Contract and license will outweigh exemptions
- Be aware of **end dates**
- “Open Access” or
  - Free to use but **check license specifics**
Can I rely on an Exemption?

Fair use- Section 107

Reproduction by libraries and archives- Section 108

First sale- Section 109

TEACH Act- Section 110 (2)

Performances and Displays for:
- Classroom use
- Religious use (for nondramatic literary or musical works or of dramatic-musical works of a religious nature)
- Non-profit use (for nondramatic literary or musical works)
- Homestyle
Fair Use Explained

● THE **PURPOSE** AND CHARACTER OF YOUR USE
  ○ transformativeness, commerciality, bad faith, illustrative purposes (including education)

● THE **NATURE** OF THE COPYRIGHTED WORK
  ○ creative/factual, unpublished

● THE **AMOUNT** AND SUBSTANTIALITY OF THE PORTION TAKEN, AND
  ○ amount, “heart of the work,” necessary to purpose

● THE **EFFECT** OF THE USE UPON THE POTENTIAL **MARKET**
  ○ substitute/complement
Do I need to find the owner and seek permissions?

- Look for clues: copyright notice, place and date of publication, author and publisher (examine the object itself for clues)
- Contact the author/publisher if uncertain and seek permissions.
- Search the Copyright Office catalogs and other records.
- *Costly* Have the Copyright Office help by searching for you!
Want to Avoid Some of the Trouble?

https://www.youtube.com/embed/Nc3Dnh2JCMl

https://commons.wikimedia.org/wiki/Main_Page

https://search.creativecommons.org/

https://images.google.com/
Best Practices of Fair Use in your Thesis or Dissertation

**Reusing Content**
- Copyrightability of Tables, Charts, and Graphs
- Tables, charts, graphs, figures may hold little to no copyright protection
- More Creativity = More © Protection

If you think there may be copyright protected, fair use is your new best friend.

Ask yourself:
- Do I need this specific figure/image to complete my scholarly objective?
- If not, can I find something in the public domain or with a Creative Commons License?
- If you can, your use may not be considered fair use.

**Before** Thesis, Dissertation, or Report

- Navigable but can be hazardous
- Potential for signing over copyright to content needed to complete ETDR
- Should know about copyright and author rights before deciding to publish
- Copyright should be a consideration throughout ETDR creation
- Knowledge of how to request permission from journal/publisher

**After** Thesis, Dissertation, or Report

- Relatively easier process
- Copyright stays with the graduate student & is intact if they wish to pursue publication
- Should make publisher or journal aware ETDR is openly available
- Journals or publishers do not normally consider openly available ETDRs as prior publication
Article Versions

**Most Rights**
- Pre-Print or Submitted Manuscript
  - Repository
  - Pre-print communities
  - Social Networks
  - Personal Website
  - May need to replace with A.M.

**Some Rights**
- Accepted Manuscript or Post-Print
  - Repository
  - Personal Website
  - Social Networks (Maybe)
  - Embargo!!

**Little Rights**
- Publisher Version or Version of Record
  - Email to Colleague
Checking Author Rights

1st Stop
Sherpa Romeo
https://v2.sherpa.ac.uk/romeo/

2nd Stop
Journal’s Policies
Sample Journal Publishing Agreements

• **American Physical Society Transfer of Copyright Agreement**
  – What agreement covers
    • Copyright transfer vs license to publish
    • Licenses: Exclusive vs non-exclusive
  – Rights Retained by authors, if any.
  – Authorization

• **Oxford Publication rights**
ETDR Help

Questions about these topics:
• Graduation procedures, requirements and deadlines
• ETDR fees
• Embargo (request for delayed publication in K-REx)
• Commencement

Questions about these topics:
• Templates and formatting your ETDR
• Reviewing your ETDR and supplemental files
• Working with image or audio files
• Converting your Word or LaTeX file to PDF
• Logging into K-REx to submit your ETDR

Graduate School
119 Eisenhower Hall
785-532-6191 or 800-651-1816
grad@k-state.edu

IT Help Desk
Students Should Fill out the ETDR Request Form
785-532-7722 or 800-865-6143
helpdesk@k-state.edu
Questions

Center for the Advancement of Digital Scholarship
Kansas State University Libraries

CADS@ksu.edu - 785.532.3514