

Copyright and Art

Disclaimer: These guidelines represent the library's best effort at articulating copyright principles. They neither represent general legal advice nor a legal response to a specific situation.

Copyrightable objects include: “pictorial, graphic and sculptural works, and include two-dimensional and three-dimensional works of fine, graphic, and applied art (photographs, prints, other art reproductions, maps, globes, charts, diagrams, models, and architectural plans)

Rights of Artists

- once you create it, you own copyright until you give/sell that right away.
- includes graphic design and other things in digital form
- if you give a piece to someone, they cannot reproduce it *unless* you give them that right
- Copyright can be:
- given
- sold for a flat fee (you sign away your right)
- sold for royalties (ongoing payment for ongoing use)
- can be partially given/sold (e.g., right to photograph but not for commercial use)
- Art students, *esp. designers*, will encounter this; need to know about rights and licensing
- if an employee doing design, may be producing “work for hire”, meaning that all copyrights are held by employer, not designer.
- ownership of copyright to work should be spelled out in contract

Copying Art and Images

Who owns copyright of artwork?

- Copyright does not necessarily equal ownership. A museum may own a work of art but may not be the ones with the copyright or the work may be in public domain.
- However, an owner may not give access to make an image (e.g., a photo) of the art, prohibiting copying.
- photo of a 2D work is not copyright because it lacks originality; however, a photo of a 3D work such as a sculpture might actually have a modicum of originality (angle, lighting, etc.), and thus be copyrighted (the photo, not the art work)

What is fair use? Guidelines have been attempted but never adopted. However, CONFU, CCUMC, VRA Guidelines give good guidance). (See Helpful Resources at bottom.)

Digitizing slides for Educational Purposes (see *Visual Resources Association Guidelines*)

- digitizing a legally acquired slide for use in classroom is similar to other simple changes of format (permitted); however, not legal to publish it or to share it
- permitted to make slides of “copystand photographs” of images from published materials
- must be for educational purposes—scholarship criticism, instruction, comment, analysis
- may not be shared outside institution (i.e., made available on Web)
- may be made if suitable quality image not readily available at reasonable cost and in reasonable time
- recommend including as much attribution as possible
- copying vendor slides or images from databases—subject to conditions at time of purchase/license too (issue of contract law)

Students' and Educators' use of images (see CCUMC and CONFU)

- students may incorporate lawfully acquired images into projects (“multimedia programs”; theses; papers; class assignment) for a specific course/educational purpose
- educators may display lawfully acquired images in face-to-face instruction and at professional symposia and conferences.
- students may display these for educational purposes (e.g., class presentation)
- attribution should be given and should be visible (if an exam with I.D. then it should not display but should be attached)
- educators may keep as part of professional portfolio (for tenure review/job interviews)
- students may be kept in portfolio for use in job or graduate school applications
- time limit: 2 years from time of completion of project
- amount considered fair use: photos and images: up to 5 works from one author/artist; up to 15 works or 10% from a collection (i.e., of different artists)

Alterations to images: May be made to support specific educational objectives. Should be acknowledged. If not in for educational purpose (e.g., classroom exercise), must get permission.

Helpful Resources

Bielstein, Susan M. *Permissions: A Survival Guide: Blunt Talk about Art As Intellectual Property*. Chicago: University of Chicago Press, 2006.

Center for the Study of the Public Domain. [Website] Duke University School of Law. Accessed Aug. 2008. <<http://www.law.duke.edu/cspd/>>
–excellent for looking at discussion of ideas relating to intellectual property and the arts

College Art Association. *Copyrights and Permissions in Scholarly and Educational Publishing*. 1990s. Accessed Aug. 2008. <<http://colleart.org/guidelines/reprorights.html>>

Conference on Fair Use (CONFU). *A Proposal For Educational Fair Use Guidelines For Digital Images*. 1996. Accessed Aug. 2008.
<<http://www.utsystem.edu/ogc/intellectualproperty/imagguid.htm>>

Consortium of College & University Media Centers (CCUMC). *Fair Use Guidelines for Educational Multimedia* (submitted to Congress 1996). Accessed Aug. 2008.
<<http://www.utsystem.org/intellectualproperty/ccmcguid.htm>>

Leland, Caryn R. *Licensing Art & Design: A Professional's Guide to Licensing and Royalty Agreements*. New York: Allworth, 1995.

Visual Resources Association. *Image Collection Guidelines: The Acquisition and Use of Images in Non-Profit Educational Visual Resources Collections*. 2004. Accessed Aug. 2008.
<<http://www.vraweb.org/resources/ipr/guidelines.html>>