

YouTube, Media and Copyright for Educational Institutions

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Digital Video Copyright and Copyright Infringement

To generalize, image and audio-visual copyright is a form of protection provided for original works of authorship, including documentary, literary, dramatic, musical and experimental audio-visual creations. A body of exclusive rights is granted by law to copyright owners for protection of their work. Audio-visual copyright infringement occurs when a copyrighted work is reproduced, distributed, shared, publicly displayed, or made into a derivative work without the permission of the copyright owner. Because YouTube is a relatively new online audio visual content sharing application, copyright laws are largely coming to terms with very large amount of digital video being uploaded daily. To note, copyright is generally more lax for educational institutions but a few words and admonitions regarding policy and best practices are in order.

YouTube and Copyright

For YouTube videos, posting copyright-infringing content usually leads to the termination of a user's YouTube account and monetary damages if a copyright owner decides to take legal action. As a general rule, YouTube respects the rights of artists and creators to keep producers and audience members within a creative, legal and positive range including original artists and creators. Because of this, YouTube will remove a video if there is a challenge to copyright.

If you believe content is obviously not from the original creator, it is best not to infringe on someone else's copyright and post or embed in the online classroom and add content as a more permanent part of the online curriculum. To make a more obvious example, CNN news shared from CNN's news channel is within legal copyright. A CNN newsclip uploaded and copied from a personal user's channel opens a variety of copyright questions. Librarians and library administrators will usually try to ensure that original material is purchased if needed for longer term use and have licenced databases of copyright video for these purposes which is constantly expanding (i.e. American History in Video with PBS links, vetted Open Videos in Online Campus Guides, <http://apus.campusguides.com/index.php>). There is also a wealth of original user created material in YouTube that is fair to link to for classroom use. Faculty should realize though, that these are not permanent links or licensed purchased content. Because of this content creators have the option and do often exercise the option of withdrawing links and/or content at will. At times, withdrawal of video content is also carried out by the original creator as there is no contractual obligation or vendor contract to keep material posted or even a users channel . At other times this withdrawal is carried out by YouTube to protect copyright.

As a general rule of thumb, faculty should be selective, discriminating and judicious about what material they are linking to and ask if there is a question. Much of the material on YouTube is open-source and user-generated and contains a wealth of material for educational use well-within copyright restrictions. Common sense is a good measure. For example, because an entire Hollywood film happens to be on YouTube divided into ten part segments for linking, does not mean that this user uploaded DVD is in compliance with copyright. Because of this it is best for faculty to refrain from creating links to blatant or obvious copyright violations. If in doubt, seek guidance from the libraries.

YouTube, Copyright, Educational Institutions and Fair Use: Links

A good place to start with copyright information is the Copyright Center at the Library of Congress:

<http://www.copyright.gov/>

Other education related primer on Copyright and Fair Use is available on the Stanford University Libraries Site at http://fairuse.stanford.edu/Copyright_and_Fair_Use_Overview/chapter9/

A wider set of guidelines is also available regarding copyright and the public domain at

http://fairuse.stanford.edu/Copyright_and_Fair_Use_Overview/index.html

Section 110(2) of U.S. Copyright Law for YouTube

[Section 110\(2\) of U.S. Copyright Law](#) allows transmission of audio-visual materials to support distance or online instruction that *replaces* regular classroom instruction. To make a generalization, audio-visual material should be related to the course and material related to curricular content. This seems explicit and obvious but it needs to be mentioned. It is not appropriate for faculty to post, links to their favorite music video for community building if the online course is on General Principles of Accounting.

The Teach Act for YouTube

The [TEACH Act](#) is a variation of Section 110(2) of the U.S. copyright law. Admonitions regarding this act's allowances for audio visual material are useful as a ruler. This act specifies conditions under which educators may share or display audiovisual copyrighted works in distance education or online environments, including using only "reasonable and limited portions" of works that do not qualify as nondramatic literary or musical works. Thus the ability to share or display copyrighted works in distance education or online at APUS and the TEACH Act may be more limited than in classroom settings.

Media Literacy

A critical issue to also keep in mind when sharing or embedding videos with students is media literacy, including general Internet reliability. Are the videos truly what they say they are? Similar to debates surrounding Wikipedia and reliable sources, faculty should become media literate with regards to sources. While 'media literacy' is beyond the purview of conversations involving copyright, it is important for faculty to 'consider the source'. A good parallel would be to consider your own discipline's allowable textual academic and refereed journals and to think about these admonitions and restrictions in similar terms with audio-visual material. Veracity and reliability is key.

YouTube Copyright Center

YouTube does maintain its own copyright center divided into areas for copyright owners, YouTube users and copyright education. http://www.YouTube.com/t/copyright_center While the site is not the be all end all for copyright, the site also does provide a good set of general guidelines and overview for both users of YouTube, content producers and the basics of copyright education.

Copyright of Embedded Images, Media and Data

To generalize, current laws regarding copyright and images are in a state of flux. Under fair use guidelines, an educational institution may display a digital image in an online classroom if the image is for educational purposes. Fair use states that educators, scholars, and students may use online or display digital images in connection with lectures or presentations in their fields. A good general rule is that while it is possible to right click to save an image and then reupload, it is not preferable when the image is explicitly licenced, comes from a named author with name include on the photograph or comes from a licensed image archive (ie. Corbis, Bettman.) .

A preferable best practice would be to find a creative commons (<http://creativecommons.org/>) licensed image and use this instead. There are certain general rules which also provide common sense guidelines to reposting and sharing various media

Up to 20%, but not more than 45 seconds, of the music and lyrics from an individual musical work. This includes mp3's and other audio files but does not include oral histories, individual historical or news related interviews.

Up to 20% or six minutes, whichever is less, of a copyrighted motion media work—for example, an animation, video, or film scene from a copyrighted entity.

A photograph or illustration in its entirety is allowed but no more than seven images by the same artist or photographer or institution (museum archives etc). When using photographs and illustrations from a published collective work, you may use no more than 15% or 15 images from a single work. Similarly, if the image contains clear copyright information 'no copying' or watermarks it is preferable not to upload such images.

Up to 20% or 2,500 fields or cell entries, whichever is less, from a copyrighted database or data table. A "field entry" is defined as a specific item of information, such as a name or Social Security number in a

database file record. A “cell entry” is defined as the intersection at which a row and a column meet on a spreadsheet.

Fair Use and the Library of Congress

The final source for copyright in the United States is the Library of Congress Copyright Office. If in doubt, it is a good idea to consult with a librarian for specific institutional policies along with the Library of Congress copyright office. <http://www.copyright.gov/>

The safest course is always to get permission from the copyright owner before using copyrighted material. When it is impracticable to obtain permission, use of copyrighted material should be used judiciously unless the doctrine of fair use would clearly apply to the institution and situation. If there is any doubt, it is advisable to consult a librarian or institutional administrative director of libraries.

Creative Commons



To note for images, Creative Commons Licences provide simple standardized alternatives to ‘all rights reserved’ paradigm of traditional copyright allowing others to copy, distribute and make some uses of their work . More information may be found here: <http://creativecommons.org/licenses/> Currently, many users of the popular photo sharing program Flickr have chosen to offer their work under a Creative Commons Licence and these may be found here: <http://www.flickr.com/creativecommons/>

Further Reading: The Changing 21st Century Digital Copyright Landscape

While copyright laws largely remained dull and stagnant in the nineteenth and twentieth century, with the expansion of the internet and digitization in the twenty-first century, the debates surrounding copyright law have become a dynamic, vibrant and rapidly changing area especially with regards to libraries, online educational institutions and digital media rights. For example, which APUS libraries continues to monitor a pending UCLA/Video case which has important educational copyright implications: <http://www.insidehighered.com/news/2010/01/26/copyright> With this rapidly shifting landscape in mind, several copyright lawyers and leading experts below offer unique overviews of the current debates. To explore further, please see:

Hildebrand, Lucas. *Inherent Vice: Bootleg Histories of Videotape and Copyright*. Durham: Duke University Press, 2009.

Hobbs, Renne. *Copyright Clarity: How Fair Use Supports Digital Learning*. Chicago: Corwin, 2010.

Jenkins, Henry. *YouTube: Online Video and Participatory Culture*. New York: Polity, 2009

Lessig, Lawrence. *Remix: Making Art and Commerce Thrive in the Hybrid Economy*. New York: Penguin, 2008.

Mason, Matt. *The Pirate’s Dilemma*. New York: Free Press, 2008.

Simpson, Carol. *Copyright for Schools: A Practical Guide*. Ill: Linworth, 2010.