



# Copyright Issues for Master's Candidates in the Academic Setting



Rule of Thumb –Just about everything is owned by someone. . . .

➤ How long does a copyright last?

- If published in the United States before 1923, works are in the public domain.
- Works published after 1922, but before 1978 are protected for 95 years from the date of publication.
- Works created, but not published before 1978, the copyright last for the life of the author plus 70 years.



Fair Use allows authors use some things, but most of the time you must ask for permission

- When quoting, the percentage of the original material being used must be considered.
- Using a *very small portion* of text for commentary or scholarship may generally be considered fair use.
- Government documents are *generally*, but not always, in the public domain.
- When downloading any material from the internet, that is not clearly stated to be in the public domain, it is important to track down the copyright holder of the material and ask for permission to reproduce the material.

# Fair Use

- The doctrine of fair use (Section 107 of the Copyright Act of 1976) states that people can use copyrighted works without payment or permission when the social benefit of the use outweighs the harms to the copyright holder.

# Fair Use

- To make a fair use determination, users consider all the factors involved in the context and situation of their use of the copyrighted material.

# Fair Use

- Fair use is especially helpful when people want to use small amounts of a copyrighted work for socially beneficial purposes, like news reporting, teaching, comment and criticism, research and scholarship.

# 4 Big Fair Use ?s

- Purpose of the use
- Nature of the copyrighted work
- Relative amount of the portion used
- Market effect of the use on the copyrighted work

# The Transformative Factor: The Purpose and Character of Your Use

- In a 1994 case, the Supreme Court emphasized this first factor as being a primary indicator of fair use. At issue is whether the material has been used to help create something new or merely copied verbatim into another work. When taking portions of copyrighted work, ask yourself the following questions:

# Transformative

- Purposes such as scholarship, research, or education may also qualify as transformative uses because the work is the subject of review or commentary.

# Transformative

- Transformative uses that repurpose no more of a work than is needed to make the point, or achieve the purpose, are generally fair use.



# Transformative

- Is the use you want to make of another's work transformative -- that is, does it add value to and repurpose the work for a new audience -- and is the amount of material you want to use appropriate to achieve your transformative purpose?

# Transformative

- Transformative uses that repurpose no more of a work than is needed to make the point, or achieve the purpose, are generally fair use.



# Transformative Example

- Roger borrows several quotes from the speech given by the CEO of a logging company. Roger prints these quotes under photos of old-growth redwoods in his environmental newsletter. By juxtaposing the quotes with the photos of endangered trees, Roger has transformed the remarks from their original purpose and used them to create a new insight. The copying would probably be permitted as a fair use

# Transformative

- Determining what is transformative—and the degree of transformation—is often challenging. For example, the creation of a Harry Potter encyclopedia was determined to be “slightly transformative” (because it made the Harry Potter terms and lexicons available in one volume), but this transformative quality was not enough to justify a fair use defense in light of the extensive verbatim use of text from the Harry Potter books. (Warner Bros. Entertainment, Inc. v. RDR Books, 575 F. Supp. 2d 513 (S.D. N.Y. 2008).)

# What is permissible?

- Some people mistakenly believe it's permissible to use a work (or portion of it) if an acknowledgment is provided. For example, they believe it's okay to use a photograph in a magazine as long as the name of the photographer is included. This is not true. Acknowledgment of the source material (such as citing the photographer) may be a consideration in a fair use determination, but it will not protect against a claim of infringement. In some cases, such as advertisements, acknowledgments can backfire and create additional legal claims, such as a violation of the right of publicity. When in doubt as to the right to use or acknowledge a source, the most prudent course may be to seek the permission of the copyright owner.

# Transformative?

- Has the material you have taken from the original work been transformed by adding new expression or meaning?



# Transformative?

- Was value added to the original by creating new information, new aesthetics, new insights, and understandings?



# © The Digital Millennium Copyright Act of 1998 and Electronic Theses and Projects

- Chico uploads electronic copies of all master's theses and projects into the Chico Digital Repository (CDR) therefore we are vigilant that each candidate acquire written permission to **reproduce** copyrighted material in the final thesis or project.
- Master's candidates are required to sign a statement certifying that they have obtained written permission from each copyright owner for any material they have reproduced in their master's document.
- Written and signed copyright releases to **reproduce** borrowed material must include an acknowledgment that the master's thesis or master's project will be placed in "CSU, Chico's Digital Repository," a centralized repository on the world wide web.



When is permission required for material used in a master's thesis or master's project?

- Reproducing some types of copyrighted material in a master's thesis is not considered "fair use" and signed copyright releases must be acquired (**e-mails do not count**).
  - Photographs, graphics, tables, and figures require written permission from the copyright holder. Redrawing another author's illustrative material is not considered an "adaptation" of the original.
  - Performing Arts material (e.g. musical scores, plays, paintings, sculptures, and so forth) must always have written permission.
  - Most electronic publications are indeed copyrighted (they are not in the public domain).

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- The University is committed to upholding the highest standards of academic honesty
  - To promote a graduate student culture that respects and honors original research;
  - To teach the importance of independent thought; and
  - To emphasize the development of innovative problem solving, and creative expression.

# © Helping students to understand the copyright laws

- Assume that every work is protected by copyright
- Do not rely on the presence or the absence of a copyright symbol (a c-world) as it is not required for works published after March 1, 1989
- All permissions must state the material may be *reproduced* in the copies of the master's thesis or master's project to be bound
- When in doubt, seek permission

# © Cultural differences in interpreting the use of copyrighted material

- When international students enter western academic institutions they bring their own cultures that include different ideas, assumptions, and experiences that have been learned from early childhood.
- For many cultures there is an expectation that assignments are collaborative in nature, rather than reflecting individual efforts.
- For faculty and staff, there is an inherent need for greater awareness and understanding of the possible cultural dimensions to plagiarism.

# © Possible cultural differences in defining plagiarism

- Culturally there is a reverence for authority, and rewriting the words of a well known author is considered disrespectful
- Memorizing and repeating material word-for-word is a basic tenet of learning
- There is a concern that personal English skills are not sufficiently proficient to explain the point clearly enough
- Copying the work of another author is considered a compliment
- In some academic cultures, plagiarism is widely accepted and not considered “wrong”



# Consequences of plagiarism or copyright infringement at CSU, Chico

- Pursuant to Title 5, California Code of Regulations, Section 41301, “cheating or plagiarism in connection with an academic program or campus may warrant
  - Expulsion
  - Suspension
  - Probation
  - Withdrawal of a degree.”