

INTRODUCTION TO COPYRIGHT LAW

UNITED STATES COPYRIGHT LAW

The copyright law of the United States is Title 17, U.S. Code. This lengthy statute can be reviewed in print format in the Learning Resources Center, or can be found on the internet at <http://www4.law.cornell.edu/uscode/17/107.html> . As stated in the Technical College of the Lowcountry Copyright Procedure, faculty and staff are responsible for knowing and following the provisions of the law which relate to their job duties.

The Sonny Bono Copyright Term Extension Act and the Digital Millennium Copyright Act (DMCA) are the most recent sections of the copyright law. The Bono Act extends the term of copyright for an additional 20 years. The DMCA, updates the Copyright Act for the digital environment and conforms U.S. law to relevant treaty requirements. DMCA limits the liability of Internet Service Providers when those to whom they provide service violate the copyright law, if certain requirements are met. DMCA creates prohibitions on circumvention of protection technologies. The Act also provides certain exemptions for distance learning and for digital preservation to use new technology that might otherwise be prohibited.

The following section on Copyright Basics gives a very brief overview of some aspects of the law. Faculty and staff are also encouraged to take the "Crash Course on Copyright" available on the internet through the University of Texas at <http://www.utsystem.edu/ogc/intellectualproperty/cprtindx.htm>.

COPYRIGHT BASICS

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COPYRIGHT BASICS-1

- Constitutionally Based—Promote the Useful Arts
 - Careful Balance Between Rights of Owners and Users
 - Copyright Act of 1976
 - Protection of an author's original expression of ideas and facts
 - Work fixed in tangible form
 - Book, film, CD, photograph, etc.
 - Bundle of Exclusive Rights for Owners – Section 106
 - Reproduce
 - Distribute
 - Sale, lease, loan or rental
 - Perform publicly
 - Literary, musical, dramatic, dance, motion picture, and other AV work
 - Prepare derivative works

COPYRIGHT BASICS-2

- Ownership of Copyrights – Section 201
 - Author
 - Collective Works
 - Contributions to Collective Work vs. Collective Work Itself
 - Joint Works
 - Composer/Lyricist
 - Works Made for Hire
 - Employer owns unless express written agreement
 - Increasingly Important Issue for Distance Learning Courses
 - Who Owns What: Instructor or Institution
 - Text Book Model vs. Substantial Use of Institutional Resources
 - Royalties
 - Compensation for Development and Teaching
 - Duration of Copyright – Section 302

- In General: Life of author plus 50 years
- Work Made for Hire: 75 years from publication or 100 years from creation

- Penalties/Remedies for Infringement – Sections 520-505
 - Actual Damages
 - Statutory Damages
 - Innocent and Willful Infringement
 - Injunction
 - Attorneys Fees

COPYRIGHT BASICS-3

- Key Limitations On Exclusive rights for Distance Learning
 - Fair Use—Section 107
 - A Defense Not an Exemption
 - Factually Based
 - No Bright Line
 - Four Part Balancing Test
 - Purpose of the Use
 - Commercial or Nonprofit Educational Use
 - Nature of the Work
 - Factual or Creative
 - Amount/Substantiality of Portion Used
 - Size vs. Importance
 - Economic Impact on market Value of the Work
 - Course Packs: The Kinko's and MDS Cases

COPYRIGHT BASICS-4

- Key Limitations On Exclusive Rights...
 - Educational Use Exemption – Section 110
 - Face-to-Face Teaching – Section 110(a)
 - Performance/Display
 - Nonprofit Educational Institution
 - Classroom/Similar Place Devoted to Instruction
 - Lawful copy
 - Transmission – section 110(b)
 - Performance or Display of Non-dramatic Literary or

Musical Work

- Regular part of Systematic Instructional Activities
- By Governmental Body or Nonprofit Educational Institution
- Transmission Primarily for Reception
 - In Classroom or Place Normally devoted to Instruction, or
 - By Disabled Others Unable to Attend Due to Special Circumstances, or
 - By Government Employees/Official Duties
- Limited Scope
 - Legislative History/Closed Circuit vs. Broadcast/Videos