

... first time teaching about copyright related issues, legal issues. So some of these I'm a little bit more familiar with others I'm less familiar with including the DMCA and the tg act, but I'll make an effort to take a stab at those throughout today's presentation.

So, what is intellectual property, intellectual property or IP lot of folks in in the legal traits, just refer to it as IP for an inclusive term. It's kind of a catch all for creations of the mind, such as inventions literary and artistic works designs and symbols names and images used in commerce.

It's also traditionally comprised of four categories. It's basically a product of the human mind is protected by law from unauthorized use by others. So within IP, we're talking about four kind of distinct categories. Copyright patents, trademarks and service marks, and then trade secrets.

My colleague Beth Kayler. She is our Business Library business and government information library. She's much more knowledgeable about the world of patents and trademarks and searching for information related to those, she couldn't be with us today. So, if you do have any questions about either of those two categories, I'll have her contact information. Towards the end of the presentation. And you'll also be able to follow up with me or other colleagues in the audience or Melissa Raynor when it comes to questions about online education and ethical or legal use of material online teaching environment.

So, the workshop break down we're going to cover, kind of a broad range of topics, dealing with copyright author writes very used to teach at the DMCA, and then lastly patents and trademarks.

That bailiwick that I typically work with most of the time is author writes and fair use. So that's where I'm a little bit more knowledgeable about might spend a little bit more time in those areas as graduate students that are doing research and writing up the results of your own work and producing your own new knowledge author writes and fair use. Something that would be relevant or important to you.

So the Copyright Act of 1976 legislation. Protecting original works of authorship fixed in any tangible medium of expression.

Tammy, and I were kind of teasing, spit balling some hypothetical earlier and kind of focused in on the word tangible tangible medium so we had a number of hypothetical law school examples that we were kind of spit balling with each other. So, the emphasis is on the word tangible form of evidence, one key thing about the Copyright Act of 1976 and copyright in

general, is that it does not require registration or notice. So oftentimes you see the little copyright symbol, and that's not necessary anymore. So basically if you create something and you fix it in a tangible medium that creation is copyrighted. From the minute that you have a fixed it in the tangible medium, then generally copyright is 70 years plus the life of the Creator. So if it was, if it was created after 1978 70 years plus the life of the Creator.

Although you can renew copyright on something beyond that.

Author rights. So, when you create something a year, essentially, guaranteed.

Six rights under the Copyright Act, you as the author have the right to reproduce the work. You have the right to prepare derivative works based upon the work to distribute copies of the work to publicly perform the work to publicly display the work and to publicly perform sound recordings, the digital audio transmission. And we're author writes and come into play the view as a creator is when you're publishing, so if you're doing research in a scientific or otherwise scholarly way and you're working with a for profit publisher, oftentimes that publisher will require you to sign over copyright in exchange for publishing your work.

And this has been historically the model for scientific and scholarly publishing, where after you submitted your work its peer reviewed and accepted for publication, you generally signed some sort of agreement the transfers copyright of that work to the publisher.

And so some of this historical model is starting to change, where there are different organizations advocating for scientists and scholars to develop mechanisms to retain their often rights, basically being the argument that the publisher does not need to own the copyright of the item, instead of only needs to have the right of first publication. And so there are a number of groups, including spark the scholarly publishing academic resources coalition that has developed a number of frameworks to help authors advocate for and retain the copyright of their work.

So these are essentially your six rights as an author of the intellectual product that you create

fair use. So what is various, various as a legal doctrine or legal principle.

Why is it important to you and your personal and professional lives and how can you comply with, and utilize fair use to your advantage.

So, very uses essentially legal doctrine and promoting the freedom of expression by permitting the unlicensed use of copyrighted protected works in certain circumstances. So basically if I, for example, I am the owner of a photograph, and you want to use that photograph. There are certain circumstances in which you can use that without obtaining my permission.

And so this is what Fair Use centers on really this idea of creative or imagining works. And so this is a protection for you, the consumer or user of information from a claim of copyright infringement.

Various generally comes down to four pillars, dealing with a purpose and character of the use, including whether the uses of commercial nature or is for nonprofit educational purposes.

So, what is the word in some way transformative. If you've transformed the work in some significant way maybe you took a photograph. You took multiple photographs, you cut them up into mini collages and then reassemble them into some very unique product.

you could potentially claim fair use within that context.

The second pillar is the nature of the copyrighted work. And this gets into whether you're using factual information or perhaps fictional creative information so let's say you wanted to use a photograph of Harry Potter.

Now we're getting into something that's a fictional work.

So, the your your argument for fairies might be more limited whereas if you were using a picture of the Lincoln Memorial.

Because that's fact based nonfiction. You might have a stronger position. And notice that I'm using tentative language here, potentially and my things like that because fair use is very contextual in case dependent, there's no, there's no law or regulation that governs Fair Use it's entirely case law dependent and so it's up to the judge to determine when fair use is didn't comply with, or when Fair Use has been violated and then there's been a copyright infringement.

So it's, it's, it's very nebulous and blue if you will.

Very use the third pillar deals with the amount and substantiality of the portion used in related to the copyright work as a whole.

So for example, if you have a picture poster, and you decide to use maybe a very small substance or portion of that picture maybe you decide to make a thumbnail of it, use it in a one time situation that could be an argument for fair use. And then of course the last one has to deal with the market value of the copyrighted research and what kind of effect, if any, did your use have on that market value.

So for example, if you take an image of a salt marsh that wasn't yours. You put it on a brochure, and you happen to work for an eco tour company.

And you're using that picture of a salt marsh to sell your services. That could be considered a violation of fair use because it's not for one is not for an educational purpose, and to, you could be perhaps, taking away from the market value of the photographers work.

So fair use is a bit complicated.

You can oftentimes, you can win or lose a case, if you have only complied with maybe two or three elements of fair use and still be infringing on another. So you don't have to be compliant in all four in order to be safe in various context.

So why is it important to you.

So, it's important for one, because we want to play nicely in the sandbox of life.

You as a producer of information and creative works would want somebody to respect and ethically use your works. So, the expectation is that you would do the same.

In, following ethical and legal guidelines and gathering of using that information.

The other partners do cover your behind.

So that if you or your organization that you work for isn't sued, and perhaps you could end up being sued or fired from your job or even both.

So, ensuring that you're complying with fair use, under the laws and is important. And also, more importantly, as I said, to begin with, knowing

that your own creative and imaginative works are protected, knowing that there is a protection out there for you.

In this environment.

So what to do. Oftentimes when I work with students. Students want to use images in their own work, images and figures that they find using search engines like Google, Google is a famous example because it has an image search and you can easily search for an identifier images that you might want to use Google doesn't do such a good job of guiding you through the actual usage of those images, it just says they're out here, and what you do with them is up to you.

So, best practice. When you were doing and working with images or figures for example. Let's say you want to use a figure from a scientific paper maybe it's a great looking histogram or, or you know scatter plot, some information that you're trying to convey.

You really want to get permission from the owner of that image and that could be the author of the paper or it could be the publisher, as I said earlier, oftentimes, authors will have to sign away ownership of their work exchange for publication, and so that figure would no longer be the property of the author instead it would fall to the publisher. And so your best safest bet is to get permission is specifically written permission from either the author or the publisher. Another option is to find materials that are in the public domain and we'll talk a little bit about what the public domain is if you're not familiar with that term.

Also, another alternative is to find materials within the Creative Commons.

And so the Creative Commons is another way to legally and ethically use information in your own work.

And then the last. Certainly, is to take your own photograph or create your own image for example of figure. That would be belong to you so that you don't have to get permission.

Let's see so public domain so what is the public domain. So the public domain is as it kind of suggests items that are free and available for the public to use, and they're no longer, or were never under copyright. So, the copyright perhaps could have expired. So, generally anything published between our prior to 1923 is in the public domain.

So if you found an image.

Maybe a civil war battle that was taken in the 1860s, that would likely be in the public domain.

If the copyright owner did not read new the copyright.

Or if the copyright owner placed it deliberately in the public domain and this is what they refer to as a dedication.

And then, copyright law doesn't protect this work, generally, oftentimes works of the United States government, things that were published at the federal level by the federal level, are not copyrighted and unless otherwise no good. So for example if you find an image again of a salt marsh.

That was taken by someone working for Noah, the National Oceanic and Atmospheric Administration.

That image would be in the public domain, unless there was a note saying that it was not in the public domain. Otherwise, it will be so oftentimes if you're searching for example, federal photo libraries for example, referring back to the NOAA, NOAA has a nice photo library.

They include a statement. Within that catalog that those images are all in the public domain, unless otherwise noted, so if you find an image that is copyrighted, it'll include that in the metadata about that image.

So the Creative Commons is an effort to create more flexibility and opportunities for authors and creators to share their works was founded in 2001 by Lawrence Lessig and others. And it was inspired by something that we call the free culture, more about the free expression of ideas and creations, over, over the web. So this is where you oftentimes see the phrase, some rights reserved versus the traditional All rights reserved. Which you would often see the complete the copyrighted image.

Although the summer rights reserved is not an alternative, or replacement copyright, but there are exceptions that allow copyright holders to permit or specify use of their works under certain conditions. And so there I think there are four, three or four different licensing categories that a creator can use to assign specific uses of his or her copyrighted work, the copy the Creative Commons is online at creativecommons.org, and it's very easy to go and look through the different licenses and usage frameworks that they provide.

If you're curious about how the Creative Commons can be employed in action. A good example to look up is look at, do some searches and flicker because oftentimes the creators of those images will assign certain Creative Commons usages that allow others like myself to use their their images in certain circumstances.

OK, so the Digital Millennium Copyright Act, and a teacher. These are two pieces of law that I'm less familiar with.

So I'm not going to cover them in great detail, at least for now we'll probably have another workshop in the future where we go into greater detail about the DMCA and THX and its relevance to academia.

But both of them essentially provide for protection of materials distributed over the internet, the DMCA real big, I guess contribution to the sharing and materials was the act, making criminal the act of using software to distribute copyrighted materials, so.

So for those of us that are probably older in this audience. You may remember Napster Napster ran into a lot of problems associated with the DMCA.

The technology education copyright harmonization after teach at really focuses on providing nonprofit educational institutions, the ability to use copyrighted works for some specific purposes like presenting a video in class. And really it's focuses in the online environment.

Otherwise it's also very much like fair use. So, you know, what can you use ethically legally in an online teaching environment is really kind of what the teacher

tries to deal with.

And again, these were both on. If you know the history of the legislation 99 2002, the world was very different than it was in 19 82,002, with regards to development and use of materials online. So I wouldn't be surprised if we see updated legislation within the next several years.

Patents, Patents.

What is a patent is the grant, have a property the property rights to its creator.

The length of a patent is generally 20 years from the date the patent was filed in the United States, and grants the right to exclude others for making using offering for sale or selling or importing into the US. So if you have a prescription that a pharmaceutical patented, you're going to pay their price until it falls out of patent, unless they renewed the patent very generally three types of patents design Patents, Patents, and utility patents right it's like plant patents, very fast way times and you'll probably run into problems, I tried to say at once as you can see and.

So who can get a patent. Anyone can get a patent, who is willing to invest or discovering new and useful process machine manufacturer composition of matter any new and useful improvement there on the maintain obtain a pad, you can see that was a very bold verbose loquacious statement about who can get a patent, and so it was probably written that way with intentionality to by legal ease people to make getting a patent for anything. Pretty much easy to do if you're willing to invest the time and effort, although it is a complex process. And so, we recommend that you want to consult with an expert in patent law, and you'll, you'll find that there are patent attorneys who specialize specifically in this activity. And those are the folks that are most knowledgeable, that can help you.

Searching for patents within the state of North Carolina, there are two patent depository libraries, North Carolina states DHL library and UNC Charlotte j Marie Atkins Library.

These are both open to the public. And they also provide specialized services and read resources for patent searchers, including some of the additional specialized databases.

For example, engineering databases that might be useful in a patent search.

The US Patent and Trademark Office also has a tutorial for searching for patents, there is a free public search engine that you can use to search, and then Google has also developed a patent search feature for searching for and identifying patent related literature.

Trademarks or service and service marks. Trademarks our brand name or, so a trademark or service Mark complete any word names that will device or combination us or intended to be used to identify and distinguish event services and one seller provided from the other end to end to indicate the source of the goods or services. So when I think about trademarks I often think about the film coming to America, where there was the restaurant McDonald's and they were claiming that they were different from McDonalds. Even. And so, that is, that I think a great riff on opening line for discussing trademarks, you can file a trademark on your own, but again it's recommended that you work with an experienced trademark attorney to

help you through that process. And then of course the United States Patent and Trademark Office has an online database to determine if anyone has claimed a trademark.

I think as an aside, I think, is it the dairy industry Tammy that is trying to trademark the word milk. I think so that plant based producers of milk can't use the word Nope.

So the dairy industry is is beefing up. Pardon the pun to go after the plant based folks.

So, this was really just a very high level view and introduction to copyright and patents. There are a number of really good guides online, the copyright Crash Course, University of Texas at Austin library is a really good tool for orienting yourself with some of these issues.

As much as I hate to say it, the University of Florida, I went to the University of Tennessee. So there are dark tribal of us, but so as much as I say, they have a really nice guide as well, that explores many different facets of copyright teaching online using streaming video etc.

Often rights Spark, I mentioned earlier, the scholarly publications and Academic Resource coalition. They have some really good materials on how you can advocate for and retain your rights when it comes to publishing scholarly journal articles using various agenda that you would attach to your agreement, some of the some of the stuff surrounding author writes is further strengthened by federal agencies like the National Institutes of Health that have required.

Much of the research that it funds to be publicly available within certain prescribed amount of time. So retaining water rights is is becoming something that I think it's easier to do than it was say 10 or 15 years ago.

And then my colleagues and the University Council here at UC w have collaborated to develop a fair use worksheet and a teacher worksheet and these are basically like checklists, that can help you go through the process of determining whether you are in compliance with fair use, or if you're compliant with the TEACH Act.

So they're conditional.

That's a conditional framework that will help walk you through that process.

Certainly, if you have questions. Generally, the devil is in the details as they say. And so, while this was a very high level introduction. oftentimes, your questions or best answered when their their their tweet to your specific so or to the specific context of your question. So if you have questions, whether it's fair use, or author writes, you can certainly contact me if you have questions about teaching in an online environment using materials in that setting streaming material scholarly articles in that setting, you can contact me. Although my colleague Tammy Ivan's is much more knowledgeable in that area.

If you're looking at the question of patents and trademarks, my colleague Beth Kaler who contributed slides for this presentation, but couldn't be here with us today. She would be much more knowledgeable about helping you navigate that complex landscape. And then, my colleague Melissa Ramer, who's our education and art librarian. She can also help you with some of the online streaming video questions and then also questions about the use of artistic works or images.

So we're all here to help you.

At the end of the day we can give you some guidance or some input, but really when push comes to shove, you would really want to talk with an attorney to get professional legal guidance in those areas of concern.