



Copyright, Fair Use and Your ETD

KNOW YOUR RIGHTS & RESPONSIBILITIES



UNIVERSITY LIBRARIES
VIRGINIA TECH.



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COPYRIGHT, FAIR USE AND YOUR ETD



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Let's talk about

- What does copyright mean?
 - What can't be copyrighted?
 - Who owns the copyright?
 - Copyright licenses
 - Public domain
- What is fair use?
- ETDs



U.S. Constitution

Article I. Sect. 8 Clause 8

[The Congress shall have power] "To promote the progress of science and useful arts, by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries."

US Code Title 17 Sect. 102: "original works of authorship **fixed in any tangible medium** of expression, now known or later developed, from which they can be communicated"



What cannot be copyrighted?

- Ideas, procedures, and methods
- Titles, names, slogans (may be trademarked)
- Facts and data, phone numbers, news
- Works in the public domain
<http://librarycopyright.net/resources/digitalslider>
- Unrecorded, unwritten, i.e., un“fixed” works



Who can own the copyright?

- Creators of original works
 - ETDs: theses and dissertations
- Creators' assignees
- Employers: works for hire
 - Explicit, e.g., job description
 - Is the work we do owned by Virginia Tech?
 - [Policy 13000](#)



VT Policy 13000

<http://www.policies.vt.edu/13000.pdf>

- Traditional results of academic scholarship
- Contributes to the “university's benefit by its creation and *by continued use by the university* in teaching, further development, and enhancement of the university's academic stature”
- Presumption of ownership is to the author
- University’s rights are limited to free (no cost) use in teaching, research, extension, **etc. in perpetuity.**



Copyright holders legally control

- Reproduction
- Modification
- Distribution
- Public performance
- Public display

With exceptions



It is not required, but

- Copyright © 2020 by Jane Z. Student
- Copyright © 2020 by John Q. Public unless otherwise stated
- Chapter 3 © 2008 by American Institute of Architects. All other material © 2020 by Ola Nordmann

And include

Creative Commons Licenses



Attribution “CC-BY”



Attribution ShareAlike “CC BY-SA”



Attribution Noncommercial “CC BY-NC”



Attribution NonCommercial ShareAlike “CC BY-NC-SA”



Attribution NoDerivatives “CC BY-ND”



Attribution NonCommercial NoDerivatives “CC BY-NC-ND”

Permission or license NOT required

Public domain: Intellectual property is not owned or controlled by anyone

- US government documents
- It's old
 - published before 1923—generally
 - 70 years after the creator passed on
 - 95 years after the work-for-hire was published
 - 120 years after the creation of the work-for-hire

<https://copyright.cornell.edu/publicdomain>

<http://librarycopyright.net/resources/digitalslider/>



Permission or license NOT required

Fair use

1. Purpose and character of use
2. Nature of the work
3. Amount and substantiality
4. Effect

Weigh all 4 factors



1. *Purpose and character of use*

- Commercial or educational use
- Profit or not
- Criticism, commentary, news reporting, teaching, scholarship, research
- Transformative, value added

FAIR USE 1 of 4



2. *Nature of the copyrighted work*

- Worthy of (extensive) protection?
 - Not a quality judgment.
 - Can it legally be protected by copyright?
- Character of the work?
 - Fact or fiction
 - Published facts weigh in favor of fair use
 - Unpublished original expressions weigh in favor of seeking permission

FAIR USE 2 of 4



3. *Amount and Substantiality*

- Use only what is necessary
- In relation to whole work
 - Quantity
 - Quality

FAIR USE 3 of 4



4. *Effect*

- Will your use reduce the value of the original work?
 - Harm to the market
 - Real
 - Potential



Fair Use: weigh all 4 factors

- Help is at [ALA Fair Use Evaluator](#) (online tool)
- If the scales did not tip in favor of fair use
 - Modify your use
 - Ask for permission
 - Assess the risk
- Orphan works
 - Assume it's protected by copyright



Including Copyrighted Works

Graduate School asks for evidence with ETD

- Fair use; determination attached
- Creative Commons license
- Public domain
- Used with permission, letter/email attached



Signing Agreements with Publishers

- Negotiate after your article is accepted for publication
- Keep your copyright
 - Use it in your thesis/dissertation
 - Link it from your CV/résumé
 - Use it for teaching (i.e., distribute to your class)
 - Distribute to your colleagues
- Give non-exclusive rights to publisher/journal
- SPARC [author addendum](#)



Manuscript style ETD

- Did you keep the copyright to your article?
- Include a signed release from the publisher
- Link to the publisher's version
- iThenticate plagiarism detection



Five Questions

- Is the work protected by copyright?
- Is there a specific exception in copyright law that covers the use?
- Is there a license that covers the use?
- Is the use covered by fair use?
- Is permission needed for the use?



Copyright Resources at VT Libraries



- Copyright

<https://scholar.lib.vt.edu/copyright/>

- Fair Use


<https://scholar.lib.vt.edu/copyright/cprtfairuse.html>

- Copyright and Authors (inc. ETDs)

<https://scholar.lib.vt.edu/copyright/cprtetd.html>

- Request Permission: Sample letter

<https://etd.vt.edu/howto/permission.html>



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