IP, Copyright, Fair Use, & Plagiarism

Fine Arts LEAP – Spring 2012

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Copyright or Copy Wrong?

• With your group, read through the scenarios you are given.
• Based on brief research, decide as a group if copyright or ethics has been violated.
• Be prepared to share your decision with the rest of the class, along with how you came to that decision.
1) You are taking a Theater class and an English Literature class during the same semester. Both classes require you to study and write a paper about the play “Hamlet.” To save time, you write one paper and turn it in to both professors. Is this OK? Why or why not?

This depends on many factors. If both professors know and give approval before you write your paper, then it is not plagiarism or academic dishonesty. However, some universities would not allow this to happen, despite professor approval. Bonus question: Is this allowed at the University of Utah? [Code of Student Rights and Responsibilities (6-400.1.B.2.b)]
2) You are taking an art class and asked to create a work that expressed “Who Am I?” You decide to cut out pictures and words from a magazine featuring your favorite band and glue them around a photo of you and your parents, giving them new meaning in a new context. Is this a violation of copyright law? Why or why not?

No. You have legally obtained the images and words from the magazine. Taking only portions of the images and text and putting them into your artwork would constitute a new work of art, also known as a transformative work.
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3) You are writing a paper on the history of modern dance in America. You find an interesting article on www.dance.gov, which is a US government website. You quote a single sentence from the article in your paper. Do you need to cite the website in your paper? Why or why not?

Yes. The US government does not copyright any of its original publications and writings. Yet, you would still want to indicate where the quote came from. Not citing sources is considered academic dishonesty. Citing also allows readers of your paper to check the full context of the article where the quote came from.
4) You are a member of the University of Utah Guitar Ensemble. The ensemble is invited to perform John Coltrane songs at a nursing home. Is this a violation of copyright? Why or why not?

It is not a violation of copyright because the UofU campus has non-exclusive licenses with three agencies—ASCAP, BMI, and SESAC—that cover public performances of musical works by choirs, orchestras, and marching/pep bands. It also covers the use of recorded music played for dance and ballet performances. And it covers broadcasts originated and accessed at the UofU or webstreams at utah.edu

It does NOT cover music associated with performances of operas, musicals, or plays!
5) As part of “Green Week,” ASUU screens the movie “An Inconvenient Truth” for students and guests at the Olpin Union theatre. Is this a violation of copyright? Why or why not?

Any “public performance” of a copyrighted work (film, television, plays, and choreography) requires permission of the copyright owner. In this case, the screening (performance) is considered public because it is not done in the context of a class, despite being on a University campus with a student audience, and because the attendees were not personally invited into a private location, such as friends in a dorm room. In this scenario, ASUUU must purchase a public performance license for its film series.
6) Your friend takes a Ceramics 101 class in fall and gifts you a set of wine goblets! In spring, you take an intermedia sculpture class and arrange the goblets on a card table as part of an installation titled “Ashtrays.” You give no indication that the goblets were made by your friend. Academically, is this OK?

This is another example of a transformative work and is not in violation of copyright. However, the UofU student code states, “Plagiarism includes, but is not limited to, representing as one's own, without attribution, any other individual’s words, phrasing, ideas, sequence of ideas, information or any other mode or content of expression.”
7) You start a research paper about the current state of arts funding with, “It was the best of times, it was the worst of times.” You do not include the book “A Tale of Two Cities” in your works cited. Is this plagiarism? Is it a violation of copyright?

Not exactly. Items that are considered common knowledge (“there are 12 months in a year”), including famous quotes, do not need to be cited. However, in this scenario, it would not do any harm to mention the author and source in the text of the research paper.
8) You find several photographs of 19th century paintings in the ARTstor database. You include them in your director’s blog for an upcoming film shoot, so the actors and designers can view them during rehearsals. Is this a violation of copyright law?

Possibly. This scenario involves the legal concept of Fair Use. You have to ask additional questions to know for sure. Are the images in the public domain? Is the blog for educational purposes only? Is the blog site available publicly? Have you gotten permission from the copyright holder to use the images in the blog? Are you showing just details of the paintings?
Intellectual Property & Copyright

- Intellectual Property (IP) is an original creative work, used for research or profit.
- Copyright law protects the full rights of an individual or company to IP.
- A few examples:
  - Books, inventions, software, movies, songs, plays, choreography, art, masks, blueprints.
- Some things cannot be copyrighted:
  - Facts, nature, titles, short phrases, words
  - Fashion, hairstyles, furniture, food.
Copyright laws differ from country to country, and from era to era.

In the US, originally, IP had to be registered/published with © in order to be copyrighted. Copyright lasted 14 years, then increased to 28 years. In both cases, it could be renewed once.

US copyright changed significantly in 1976. IP no longer needed to be registered to be protected by copyright.

In 1989, copyright extended to 70 years after death of the creator.
Public Domain

• Anything not covered by copyright is considered to be in the “public domain”
• Items in the public domain may be used for any purpose without permission.
• Legal guidelines allow for use of copyright-protected materials without owner’s permission, in some cases.
  – This is called Fair Use.
  – Written into the US Code 17 § 107.
Fair Use

- Determined by examining four criteria:
  1. Purpose of use (ex. educational, business)
  2. Nature of original work (ex. data, published)
  3. Quality & quantity of use (ex. core idea, portion)
  4. Effect on market (ex. way to pay owner?)
- The argument has been made that Fair Use covers transformative uses of copyrighted works.
Plagiarism and Academic Honesty

• Citations: Give credit where credit is due
  – Exact quotes, paraphrasing, & inspiration
  – Public domain and factual information, too

• Paraphrasing
  – Not just changing a word here and there.
  – Read, then write in your own words, from what you remember.
  – Copying vital terminology (specific words or phrases) is OK, but put in quotes or italics.