

Copyrights Can Be Scary!

All the laws and rules can be confusing!

You want to use copyrighted materials but feel intimidated!

This booklet will help you with the do's and don'ts of using copyrighted materials in your course work.

**Everything you
always wanted to
know about copyrights***

**Explained by
Zip Publishing &
CoursePackets.net**

*** But were afraid to ask**

www.zippublishing.com

www.coursepackets.net

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QUICK START GUIDE TO COPYRIGHTS

- ***The Law:*** United States copyright law protects the rights of the owner of a creative work. It is usually unlawful to reproduce or distribute copyrighted material without permission.
 - ***Fair Use:*** A vaguely defined term, fair use is generally understood to allow, among other things, the copying of small portions of material for one-time, not-for-profit, educational use.
 - ***Public Domain:*** Some works do not require copyright permission because they are in the Public Domain; U.S. government documents and older works whose copyrights have expired are the most common types of public domain material.
- ***Academic Use of Copyrighted Material:*** It is useful, and often necessary, to use copyrighted material in the classroom.
 - ***Course Packets:*** Many times the most convenient option, a course packet consists of readings selected from a variety of sources and compiled into one packet for student use. Permission is required when using copyrighted material in a course packet.
 - ***Posting Online:*** Electronic reserves and other methods of placing material online provide another way for students to access readings. Although Fair Use may apply in these situations, copyright permission is sometimes required.
- ***Our Services:*** Zip Publishing is committed to producing convenient teaching materials that are in compliance with current copyright law.
 - ***Cost:*** We will negotiate directly with publishers whenever possible to obtain permission at the lowest possible price.
 - ***Ease of Use:*** All you need to do is provide us with information about the material you'd like to use, and we will take care of the rest.
 - **Call us toll-free at 1-866-880-5373 or send e-mail to info@zippublishing.com**

Copyright Law in the United States

Copyright law protects works such as essays, textbooks, novels, poetry, movies, plays, paintings, sheet music, software code, photographs, and any other creative medium. Until 1991, many instructors and copy shops assembled and sold course packets without obtaining permission and without compensating the authors or publishers. This was based on the assumption that educational copying qualified as a “fair use” under copyright law. Fair Use will be discussed below. Several court cases in the 1990s defined the rule that you need to obtain permission before reproducing copyrighted materials for an academic course packet. For more comprehensive information, you may wish to consult the United States copyright office website at www.copyright.gov. Stanford University Library also has a lot of good information at www.fairuse.stanford.edu, much of it taken from www.nolo.com.

The Definition of Fair Use

Section 107 of U.S. copyright law contains a list of the various purposes for which the reproduction of a particular work may be considered “fair,” such as criticism, comment, news reporting, *teaching*, scholarship, and research. Section 107 also sets out the following four factors to be considered in determining whether or not a particular use is fair:

1. the purpose and character of the use, including whether such use is of commercial nature or is for nonprofit educational purposes;
2. the nature of the copyrighted work;
3. amount and substantiality of the portion used in relation to the copyrighted work as a whole; and
4. the effect of the use upon the potential market for or value of the copyrighted work

The distinction between “fair use” and infringement may be unclear and not easily defined. There is no specific number of words, lines,

or notes that may safely be taken without permission, and acknowledging the source of the copyrighted material does not substitute for obtaining permission. The safest thing to do is always request permission when using copyrighted material.

The Public Domain

The term “public domain” refers to creative materials that are not protected by intellectual property laws such as copyright, trademark or patent laws. The public owns these works, not an individual author or artist. Anyone can use a public domain work without obtaining permission, but no one can ever own it. Material can arrive in the public domain in several ways, detailed below.

1. **Copyright has expired.** Copyright has expired for all works published in the United States before 1923. If the work was published in the U.S. before January 1, 1923, you are free to use it in the U.S. without permission.
2. **Copyright has not been renewed.** If a work was first published before 1964, the owner had to file a renewal with the Copyright Office during the 28th year after publication. No renewal meant a loss of copyright. If you plan on using a work that was published from 1923-1963, you should research the records of the Copyright Office to find if a renewal was filed.
3. **U.S. Government Documents.** Any work created by a U.S. government employee or officer is in the public domain, provided that the work is created in that person’s official capacity. Speeches by the President, or other government officials, fall into this category. Keep in mind that this rule applies only to works created by federal employees, and not to works created by state or local government employees. However, state and local laws and court decisions are in the public domain. Some federal publications (or portions of them) are protected under copyright law and that fact is usually indicated on the title page or in a copyright notice.
4. **Lack of Copyright Notice.** Under old copyright laws, a work that was published without copyright notice fell into the public

domain. If the work did not include the word “Copyright” or a © and the name of the copyright owner, the work would be injected into the public domain. This rule was later repealed and copyright notice is not required for works first published after March 1, 1989, although works first published prior to that date must still include notice. Just because you find a copy of a book without a copyright notice doesn’t mean that the work is in the public domain. Finally, if you’re using text from a journal, anthology, newsletter or magazine published before March 1, 1989, check to see if there is a copyright notice either for the individual article or for the whole publication. Either type of notice will prevent the work from falling into the public domain. Again, the best idea is to check with the U.S. Copyright Office. You can search for copyright registrations at www.copyright.gov/records/

Many public domain works are available on the Internet. Several sites offer free downloads of public domain materials:

- Project Gutenberg www.gutenberg.org.
- Bartleby.com www.bartleby.com
- Eldritch Press www.eldritchpress.org
- U of Virginia Library etext.virginia.edu/collections/search
- Internet Archive www.archive.org
- Literature.org www.literature.org
- and Wikipedia’s Public Domain Links page:
en.wikipedia.org/wiki/Wikipedia:Public_domain_resources

Next we will answer some questions flowing from the background information we have provided. If you have additional questions, or have a particular request for us to research, please call us toll-free at 866-880-5373, and we will be happy to assist you.

Frequently asked questions

Q: Do I need to obtain permission to use someone else's material in a course packet?

A: In almost all instances, yes. Unless the material is in the public domain (see previous page), any material published in books, journals, magazines, or other print media is subject to copyright, and you do need permission to photocopy it for a course packet.

Q: What about posting material online (Blackboard, virtual reserves, personal course websites, etc)?

A: You may have heard colleagues say that posting material online is Fair Use. In general, if material requires copyright permission for a printed course packet, it also requires permission for an electronic packet or online reserve system. Although we are aware of no court cases to date which deal with electronic reserves or online posting of material, Fair Use would depend, as in all fair use cases, on the particular facts and circumstances involved. (see the section about Fair Use on page 2 for more information) There has been much discussion in the publishing community about these issues, but as use of the Internet is constantly evolving, the laws to govern online use of copyrighted works are still being written.

Q: How do I obtain the necessary permission to use copyrighted material in a course packet?

A: A requestor may either contact the rightsholder directly or use a service such as the Copyright Clearance Center. Copyright Clearance Center (CCC) is an online clearinghouse which administers copyright permissions for many different publishers. Their website allows the user to search for a title (book, journal, play, etc) and, if available, request permission. Not every title is available on CCC, and when an order is placed through their site, they charge a \$3.00

administrative fee for each selection requested in addition to the per-page permission fee. If attempting to contact the rightsholder directly, the requestor should be aware that rightsholders change frequently, when books go out of print, rights revert to authors, or publishing companies merge, go out of business, or change names, or in other circumstances.

Q: This sounds like a total pain. Can someone else do this for me?

A: Yes! Zip Publishing researches and requests all necessary copyright permissions. Whether it is a single illustration or table, or an entire out of print book, we are happy to do the copyright research for you. There is no charge to you as the instructor; any required copyright fees are simply added on to the retail price.

Q: What makes Zip Publishing different than other course packet providers?

A: We have been developing a system to make the process easy and fast. We know which publishers will ask us to use CCC. If we are not required to use CCC, we will attempt to contact the rightsholder directly so we get the best price. We have direct contact with publishers and we negotiate with them to keep costs down. We have representatives who are very good at researching difficult copyrights and who actually enjoy solving the mystery of who owns the rights to the material you'd like to use.

Q: Great, now what? How do I contact Zip and get you to work on my copyrights?

A: You may email a bibliography for your course packet to info@zippublishing.com, and we'll get started. Your bibliography should include the title, author, and ISBN or standard number of the material, as well as the pages you would like to use. Please also provide your name, college or university, course number and title, estimated number of students, and the term in which you would like to use the material. We will do any necessary research and request the permission. Once we receive permission, we will provide you with a free price quote. If any of the costs are particularly high,

you may opt to remove readings or ask us to research substitutes. Once we have finalized the material, we will get your originals and prepare the packet.

Q: How long does it take to obtain permission?

A: Depending on the time of year, and the complexity of the request, permissions can be granted in a few hours or several weeks. The more time we have, the more likely we are to be able to negotiate the permission costs to save your students money. We do not have a minimum time frame, but be aware that we are often forced to rely on Copyright Clearance Center, or a related service, to obtain permissions at the last minute; this makes the final cost higher than if we had the time to request permission directly from the publisher or rightsholder.

Q: How much does the average permission cost?

A: It is very difficult to figure an “average” because it varies a lot from one publisher to the next. A general guideline is that most publishers charge between \$.05 and \$.15 per page of material. Some journals charge a flat fee per article, while many journals, some small publishing houses, and most authors who own rights, will grant permission free of charge for educational purposes.

Q: Is there a limit to the amount of copyrighted material I can use?

A: Again, this varies from one publisher to the next. For in-print titles, up to 10% of a book is almost always allowed. Many publishers will allow 15-20% without a problem, while others set a maximum at 30% and others will allow any percentage, for a fee.

Q: What about out of print books?

A: The rights to entire out of print books are usually available at a reasonable fee. If a book you’d like to use is out of print, we would be happy to research it for you and provide a price quote for reproducing it.

Helpful tips

Journals: Some journal publishers will grant free permission if the University library has a subscription to the journal. Likewise, if you as the instructor have a current subscription, or if you are a member of a professional organization or association which publishes material, please let us know this information; you are likely to get permission at no charge.

Out of print books: The more information you can provide us the better. If you know the book was originally published in 1926, but the newest edition came out in 1950, that is good information for us to have. It may help us track down the rightsholder more quickly.

Textbooks, “Trade” books, and Anthologies: A common issue with textbooks is that new editions come out frequently. If you wish to include material from a textbook in your course packet, please let us know if you are using the current edition or an older one. Trade books are books published for a general readership rather than specifically for the classroom, i.e. most novels, bestselling nonfiction, memoirs, etc. Copyright permissions work the same way for trade books as for academic books, but some of the large trade book publishers seem to charge a higher per page fee than other publishers. Anthologies, readers, and the like are often composed of articles which have appeared elsewhere. In many cases, the rights are still held by the original publisher. If you see a notice at the bottom of the first page, or an acknowledgements page at the end, which says “Reprinted with permission”, please include that information on your bibliography. We will need to apply to whomever granted permission for the material to be included in the anthology, rather than from the publisher of the anthology itself.

Translations: Bear in mind that translated works are copyrighted in the year in which the translation was made, not the year of the original work. There are translations of ancient texts which are not in the public domain for this reason. If you’re using “classics”, it will keep cost down if you select older translations in the public

domain rather than the newest translation, which is copyrighted to the translator.

Cases: Business, marketing, accounting, and other disciplines make frequent use of cases for teaching. Harvard Business School, Darden, Ivey, and other publishers make their cases available to instructors at the cost of a few dollars per case, allowing you to create your own customized case book. Once you have selected the cases you wish to use, we can either download a hard copy of the case or photocopy from your originals, and request the permission to make the necessary number of copies. You may search cases at any of the links below, but if there are other sources you'd like to use, just let us know, and we'll see what we can do.

Harvard Business School	http://www.hbsp.harvard.edu
Darden Business Publishing	http://store.darden.virginia.edu/
Ivey Publishing	http://cases.ivey.uwo.ca.

How to Keep Costs Down: Here are a few tips for choosing material that will result in a packet which is reasonable in cost and compliant with copyright law.

1. Choose public domain materials.
2. Older books, whether in-print or out, tend to be less expensive than newer ones.
3. Limit selections to around 10% of the whole book when possible.
4. Plan ahead. This will allow us to negotiate permissions, and, since we provide a price quote, will allow you to remove or replace expensive items.

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