

# Copyright, Fair Use, and Creative Commons

A Look at the Basics of Creating, Using, and Sharing Copyrighted Materials

# Copyright

- The Natural State of the World – Public Domain
- Elements of Copyright
  - What is it?
  - When did it begin?
  - Why do we have it?

# What is Copyright?

- Copyright is the law that grants exclusive rights to the creator of an original, tangible, and creative expression for use and distribution.
- Exclusive rights include reproduction, distribution, performance, display, and the right to assign these rights to others.
- It is grounded in the U.S. Constitution and covers both published and unpublished works.
- It protects literary, dramatic, musical, and artistic works, such as poetry, novels, movies, songs, computer software, and architecture – immediately upon creation.
- It does NOT protect facts, ideas, systems, or methods of operation, although it may protect the way these things are expressed.
  - Copyright, Fair Use, and the Public Domain: <https://youtu.be/XzzkSZ0Jrko>

# The Berne Convention – An International Agreement

- The US becomes a participant in March 1989, switching the universe of copyright in the US from everything must be registered to be legally considered copyrighted to everything copyrightable is immediately copyrighted!
  - Now an author/creator of content should apply a license in order to "share" their creation...
  - Someone can always request permission to use your copyrighted materials

# Copyright and Fair Use

- Fair Use
  - Conceptual – only a judge can determine fair use
  - Four Factors – all must be weighed and balanced
    - The purpose and character of the use (what do you plan to do with it)
    - The nature of the underlying work (what was the purpose of the original)
    - The amount and substantiality taken
    - The effect of the use upon the potential market for or value of the work
- The Digital Millennium Copyright Act – Copyright applies to digital and non-digital materials
- The TEACH Act – purpose is to give distance education students the same rights as those in a physical classroom

# Digital Millennium Copyright Act

## DMCA

- The **Digital Millennium Copyright Act (DMCA)** is a 1998 United States copyright law that implements two 1996 treaties of the World Intellectual Property Organization (WIPO). It criminalizes production and dissemination of technology, devices, or services intended to circumvent measures that control access to copyrighted works (commonly known as digital rights management or DRM). It also criminalizes the act of circumventing an access control, whether or not there is actual infringement of copyright itself. In addition, the DMCA heightens the penalties for copyright infringement on the Internet.
  - Also exempts internet service providers from certain direct and indirect liabilities
  - Reference: [https://en.wikipedia.org/wiki/Digital\\_Millennium\\_Copyright\\_Act](https://en.wikipedia.org/wiki/Digital_Millennium_Copyright_Act)

# The Teach Act

- Some of the special copyright requirements of online distance learning are specifically addressed by the TEACH Act.
- Under the TEACH Act:
  - Instructors may use a wider range of works in distance learning environments.
  - Students may participate in distance learning sessions from virtually any location.
  - Participants enjoy greater latitude when it comes to storing, copying and digitizing materials
- For provisions and requirements see: <https://www.copyright.com/wp-content/uploads/2015/04/CR-Teach-Act.pdf>
  - Take note of Teach Act Requirements

# Patents and Trademarks

## What is a Patent?

- A patent for an invention is the grant of a property right to the inventor, issued by the United States Patent and Trademark Office. Generally, the term of a new patent is 20 years from the date on which the application for the patent was filed in the United States or, in special cases, from the date an earlier related application was filed, subject to the payment of maintenance fees.
- Three Types:
  - Utility
  - Design
  - Plant
- Reference: <https://www.uspto.gov/patents-getting-started/general-information-concerning-patents#heading-2>



# Trademarks and Service Marks

- A trademark is a word, name, symbol, or device that is used in trade with goods to indicate the source of the goods and to distinguish them from the goods of others. A servicemark is the same as a trademark except that it identifies and distinguishes the source of a service rather than a product. The terms “trademark” and “mark” are commonly used to refer to both trademarks and servicemarks.
- Trademark rights may be used to prevent others from using a confusingly similar mark, but not to prevent others from making the same goods or from selling the same goods or services under a clearly different mark.
  - Reference: <https://www.uspto.gov/patents-getting-started/general-information-concerning-patents#heading-2>

# Creative Commons and Licensing

- **Creative Commons (CC)** is an American non-profit organization devoted to expanding the range of creative works available for others to build upon legally and to share.
  - Built around the concept of the 5 R's- **Retain, Re-Use, Revise, Re-Mix, Re-Distribute**
  - **Content with a Creative Commons license on them are formal Open Educational Resources (OERs)**
    - Properties of OERs
      - Free, accessible, licensed

# Creative Commons Licenses



- CC BY – Attribution Alone
- CC BY SA – Attribution. If you modify and share the original it must be shared at the same license level
- CC BY NC – You may not profit by using the originally licensed work
- CC – BY ND – You may not change the format or alter the originally licensed work
- Quick video on Creative Commons: <https://www.youtube.com/watch?v=srVPLrmlBJY>

# Attributions

- In all licensing situations an attribution must be given
  - Example: 1. Except where noted, content and user contributions on this site are licensed under CC BY-SA 4.0 with attribution required.
- Best Practices for Attribution: (recommended site)
  - [https://wiki.creativecommons.org/wiki/Best\\_practices\\_for\\_attribution](https://wiki.creativecommons.org/wiki/Best_practices_for_attribution)

# Creative Commons Library Guides (Libguides)

- Montgomery College Library - Copyright Guide:  
<http://libguides.montgomerycollege.edu/copyright>
- Montgomery College Library - Creative Commons Guide:  
<http://libguides.montgomerycollege.edu/creativecommons>
- Some links to visit:
- Fair Use Guidelines (just an example – not set in stone):  
[http://depts.washington.edu/uwcopy/Using\\_Copyright/Guidelines/Copying.php](http://depts.washington.edu/uwcopy/Using_Copyright/Guidelines/Copying.php)

# Questions?

- Dr. Buddy Muse
  - Program Manager
  - ELITE (eLearning, Innovation, and Teaching Excellence)
  - Montgomery College
  - [Buddy.muse@montgomerycollege.edu](mailto:Buddy.muse@montgomerycollege.edu)