

COPYRIGHT OWNERSHIP AND THE USE OF COPYRIGHTED CONTENT FOR THE CLASSROOM

Rule of Law:

Copyright in higher education can range from questions surrounding the ownership of original content, the use of proprietary materials for classroom instruction, preparation of distance learning materials, incorporation of multi-media content for classroom use, journal or monograph publishing agreements, peer to peer (P2P) sharing, or the application of 'fair use' factors to most of the above situations.

Ownership: A Copyright Ownership Table simplifying the ownership rules governing the original content by UNCW faculty, staff, and students is located at: <http://www.uncw.edu/generalcounsel/documents/UNCWCopyrightOwnershipPolicy.sept52006.doc>

The UNCW Copyright Policy is a faculty friendly policy, generally conferring ownership of most material to the creator/faculty, while reserving a shop right in the University for its educational and research purposes.

Use of Audio and/or Visual Materials for the Classroom: Included on the General Counsel's website at: <http://www.uncw.edu/generalcounsel/LTCopyrightWoutPerm.htm> is a unique tool enabling teaching faculty to ascertain the requirements necessary to incorporate copyrighted media, from whatever source or medium, into face-to-face instruction or via electronic transmission (e.g. use of Blackboard or WebCT) without seeking permission from the copyright holder(s). This list of facts required to use proprietary media *without* the permission of the copyright holder is a significant shortcut to the convoluted and complex interpretations to Title 17 U.S.C.S. §110 (1) and (2), and the TEACH amendment.

Risks/Consequences:

Personal liability for the infringing use of copyright protected material has increased exponentially in the electronic age with the ease of capturing and disseminating proprietary information. The focus upon ethical scholarship and research has also increased, aided by the tools available to check proper attribution and charges of plagiarism. Fines, penalties, and criminal sanctions are literally draconian in both nature and amount for the violation of any of the exclusive rights reserved for copyright holders.

Practice Pointers:

1. When considering the use of any proprietary material for scholarship or instruction, look first for an express exemption permitting the contemplated use (§110(1) or (2), 101, or 108, ***not*** the application of "fair use").
2. Failure to allow sufficient time to secure permission for a specific use is not a factor favoring fair use; when contemplating the use of copyrighted material, allow plenty of time to investigate, track down, and secure permission from the holder(s) of copyright.
3. If a contemplated use is impermissible and you haven't the time or have been unsuccessful in securing permission(s), contact OGC for advice and assistance.