Copyright topics

TEACH Act

Course packs

David Drooz, NC State University
PowerPoint Makes You Dumb

- Oversimplifies complex information
- May have led to Columbia shuttle disaster

(Dec. 14, 2003 NY Times article)
TEACH Act

“Technology Education and Copyright Harmonization Act” – November 2002

Concept:
Transmission without permission

Balances rights of © owners vs. needs of distance education
TEACH Act

**Benefits:**
- students can receive course anywhere
- students can receive course anytime
- perform limited parts of **dramatic** and audiovisual works
  - no violation for temporary storage that’s an automatic part of digital transmission
  - digitize analog works where no digital version is available

**Drawbacks:** see the next 8 slides
TEACH Act

Conditions for use of TEACH

1. May not use works produced or marketed primarily for education via digital transmissions

2. May not use a work that you have reason to know is infringing
TEACH Act

3. May perform all of a nondramatic literary or music work;

4. May perform “limited and reasonable” portions of other works;

5. May display works in amount comparable to use in a live classroom
6. The performance or display is made by, or at direction of, or supervised by the instructor

7. As an integral part of a class session

8. As part of systematic mediated instructional activity
9. Of a government body or accredited nonprofit educational institution

10. The use is directly related to and of material assistance to the teaching content
11. To the extent technologically feasible, the transmission is limited to:

students **officially enrolled** in the course

or to

government employees as part of their job duties
12. The transmitting body:

- has a copyright policy
- provides students and employees with information describing and promoting compliance with copyright law
- notifies students that course materials may be under copyright protection
13. For digital transmissions,
(a) apply technological measures that reasonably prevent
• retention of the work by students for longer than a class session
• further dissemination of the work
(b) do not interfere with technology protections of the copyright owners
TEACH Act

14. Print or other analog versions may be digitized for TEACH use, in the amount allowed by TEACH, if

- No digital work is available to the institution, or

- The available digital version is technologically blocked from TEACH use
TEACH Act

Administration

Create a standard notice for faculty to pass to students:

- warn students not to copy or share copyrighted content
- link to copyright policy and information
TEACH Act

Faculty

- Only use the works in the same way they’d be used in a live classroom

- Only use appropriate portions
  - see slide 6
TEACH Act

Technology staff

- ensure that only officially enrolled students can access the content
- prevent students’ retention & access once the class session is over
- take reasonable steps to stop students from disseminating the content
TEACH Act

TEACH Act is just one tool for distance education

TEACH Act is difficult to apply ... so
- consider permissions and fair use!

Technological protections will evolve
- stay up-to-date to comply with law
- advances may make compliance easier

END
Coursepacks

1. Fair Use

2. Permission
Coursepacks

Fair Use test in 17 U.S.C. 107:

1. **the purpose and character of the use**
2. **the nature of the copyrighted work**
3. **the amount and substantiality of the portion used**
4. **the effect of the use upon the potential market for the work**
Coursepacks


- Commercial copyshop found liable.
- Even a 14 page excerpt is too much.
- Biggest factor was Kinko’s nationwide market for coursepack copying
Coursepacks


- Commercial copyshop found liable
- Short excerpts infringe (17 pages, 5%)
- Plaintiffs had a $500,000 permissions market
- Sharp split among judges
Coursepacks

“Classroom Guidelines” are part of the legislative history of Copyright Act

Courts weigh them in educational fair use cases

“Classroom Guidelines are no help for coursepack copying"
Coursepacks

Applying “fair use” to coursepacks:

- Have university staff do the copying
- Keep the excerpts short
- Don’t charge more than direct cost
- Include copyright notice and a warning against infringement
- Annotate or transform the content where feasible
Coursepacks

Permissions

- Copyshops often provide this service for the faculty
- Faculty may use a service like the Copyright Clearance Center
- Faculty may go directly to copyright holder
Coursepacks

Permissions

- Allow at least 4-6 weeks to get permission
- May be limited to one semester
- May be limited to max of 25% of a work
- Wide range of costs. CCC fee is 15 cents/page, plus © royalty
Coursepacks

Electronic coursepacks:

- source material may be protected by license restrictions  (get permission)
- source material may be protected by anti-copying technology  (get permission)
- permission may be hard to get
Coursepacks

Fair use may work for coursepacks. Need legal oversight and tolerance for risk.

Copyright permission is the standard approach. Means extra cost & delay, but is legally safe.

Permissions for electronic coursepacks are increasingly available.

END