

Scholarly Communi@ation at Tufts

IP, Open Access, and Copyright – Terms and Concepts

What is intellectual property (IP)?

Intellectual property or IP refers to creations of the mind (as opposed to the hand) that are protected by copyright, patent, trademark, and trade secret laws.

What is open access (OA)?

Open Access is a term in which scholarly, scientific, cultural, literature and other materials are digital, online, free of charge, and free of most copyright and licensing restrictions with the copyright holder's/author's consent.

What are open access journals?

Open access journals are digital journals that make their content available to everyone without charge on the Internet and that may allow the authors to retain their copyrights.

What is copyright?

Copyright is the legal protection of fixed expressions of ideas or facts – the distinctive way in which ideas are conveyed in a tangible fixed form – not the ideas or facts themselves. These "original works of authorship" include literary, dramatic, musical, and artistic works. Copyright covers both published and unpublished works. A copyright symbol is not necessary.

Am I sure I hold the copyright to my work?

If your work is being published, the publisher may retain full copyright to your work. Make sure before you sign a contract/license to find out if you retain any rights or ask them to attach an Author's Addendum (see Author's Rights below) so you can retain some rights.

What are author's rights?

Author's rights allow creators to reserve the right to use their work by requiring the publisher to include an author's rights amendment in their contract.

What is fair use?

Fair Use allows a currently copyrighted work to be used without the copyright holder's permission. This legal doctrine was designed to foster creativity and scholarship otherwise stifled by rigid copyright restrictions. It is intended to balance the rights of users with the rights of owners. Courts have generally allowed this interpretation when it fits in seven categories: parody/criticism, non-commercial, art, news reporting, time-shifting (recording); research/scholarship, or search engines. Each use should be determined on a case-by-case basis.

What is the fair use doctrine?

The fair use doctrine consists of four factors which are *guidelines* to help the user determine if their use is fair:

1. **Purpose** and character of use: Whether such use is commercial in nature or is for nonprofit educational purposes
2. **Nature** of the copyrighted work: the extent to which the work is factual or creative
3. **Substantiality/amount** of portion used in relation to work as a whole: how much of the work will be used
4. Effect of use on potential **market** for or value of copyrighted work: owner/creator of work shouldn't suffer significant monetary damages from the re-use

What is Creative Commons (CC)?

Creative commons is a nonprofit organization that provides free, easy-to-use legal tools that give everyone from individual creators to companies and institutions a simple, standardized way to pre-clear their creative work and make it available to the public under terms they choose from various CC licenses, including options such as attribution, share alike, non-commercial, no derivatives, and all rights granted.

What is the public domain?

Public domain refers to any creative work, invention, or device that is not protected by copyright law. The works may be used for any purpose because their copyright has expired, never existed, or because the creators have designated their work to be used without restriction. Examples are government work, CCO, facts, or works published before 1923.

What is **opencourseware**?

Opencourseware is a web-based publication of free high quality educational materials from academic institutions, often in the form of courses, that are openly available to educators, students, and self-learners throughout the world.

What is **scholarly communication**?

Scholarly communication is an umbrella term describes the sharing and publishing of research findings by academics/researchers/scholars so they are available to the academic community and beyond.

What are **open educational resources (OER)**?

Open educational resources is an umbrella term for teaching and learning materials that in most cases may be freely used and reused without charge, although use some material may have certain limitations.

WEBSITES OF INTEREST

Teaching Copyright

<http://www.teachingcopyright.org/resources>

A project of the Electronic Frontier Foundation, this site contains great information about copyright, fair use, the public domain and so on. Provides curriculum to help teachers present information on copyright and more. Also clear, concise FAQ guides.

Using Copyrighted Works in Your Teaching – FAQ (ARL)

<http://www.knowyourcopyrights.org/resourcesfac/faq/>

Thorough question/answer resource for academics written by Peggy Hoon, JD, Visiting Scholar for Campus Copyright and Intellectual Property at the Association of Research Libraries.

Scholarly Communication at Tufts Website

<http://sites.tufts.edu/scholarlycommunication/>

This website provides information for faculty, staff, and students about all aspects of the process used by scholars to share and use the results of their and other's research.

Directory of Open Access Journals

<http://www.doaj.org/>

The Directory is a comprehensive list of all open access scientific and scholarly journals that use a quality control system to guarantee content and use a funding model that does not charge readers or their institutions for access.

OpenDOAR

<http://www.opendoar.org/>

The Directory of Open Access Repositories is an authoritative directory of open access repositories that also allows searching for content and repositories.

Copyright Term and the Public Domain in the United States

<http://copyright.cornell.edu/resources/publicdomain.cfm>

This website clearly identifies types of work, copyright term, and what was in the public domain in the U.S. as of January 1, 2011.

AUSOC Center for Social Media Fair Use Page

<http://www.centerforsocialmedia.org/fair-use>

American University's website covers fair use and has a number of best practices guides for a variety of different types of users.

Flickr Creative Commons

<http://www.flickr.com/creativecommons/>

Flickr is an online photo management and sharing application that helps contributors make their photos available to others – there are now five billion photos on the site. Flickr Creative Commons is a subset where contributors have chosen to offer their work under a Creative Commons license.