

# Friends, Romans, & Countrymen: Lend Me Your Ears!

An audible CliffsNotes trek through copyright  
issues in your oral history projects

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An Overview of  
Some Important  
© opyright  
Basics

# Why Copyright?

It's in our  
Constitution:

Article 1, sec. 8, clause 8:

Congress is:

“[T]o promote the progress of science  
and useful arts by  
securing for **limited times** to **authors**  
and **inventors** the  
exclusive rights to their  
respective **writings** and **discoveries**.”

# Obtaining ©

© Automatic protection

© Satisfy two conditions:

1. An **original** work of authorship
2. Fixed in a **tangible** form

# Some of the *Many* Tangible Forms of Expression:

- ✓ Audio recordings
- ✓ Video recordings
- ✓ Photographs
- ✓ Paper: notes, letters, drawings, doodles
- ✓ Any kind of disc storage
- ✓ Stone, bronze, plastic, papier-mâché

# © Registration

© A work or web site **does not** need to be registered with the U. S. Copyright Office

© Benefits of registering:

1. Lotsa money (actual damages or statutory damages up to \$30,000 per infringement)

2. Lawyers fees reimbursed!

# How Long Is ©opyright?


It's life of the author plus  
70 years!

For corporate works, 120 years from  
date of creation or 95 years after  
publication!

# Who Owns the © ?

 The original creator

 **Work-made-for-hire:** someone is paid to create intellectual property

 **Institutional policies:** some exclusive rights can be shared by the creator and the institution

 © can be transferred to someone else

 *N.B.: Students own their works*

# The Six Exclusive Rights of the Copyright Holder. The Copyright Owner Controls These Rights:

★ Reproduction rights

🕒 Distribution rights

🕒 Public performance rights

🕒 Public display rights

🕒 The right to allow derivative works

🕒 Moral rights [for visual arts]

# OHPs = Joint Authorship

© Interviewer + interviewee = joint authorship

© Joint authorship = “A ‘joint work’ is a work prepared by two or more authors with the intention that their contributions be merged into inseparable or interdependent parts of a unitary whole.” ... §101, p.4, *Copyright Law of the United States*.

© Joint authors share ownership!

# Get the Rights Transferred!

© In writing!

© “A transfer of copyright ownership, other than by operation of law, is not valid unless an instrument of conveyance, or a note or memorandum of the transfer, is in writing and signed by the owner of the rights conveyed or such owner’s duly authorized agent.” ...

§201, p.107, *Copyright Law of the United States*.

© If the interviewer, etc, is an employee, the interview is a work for hire.

# Some Important Dates

You need to consider  
in your  
Oral History Projects

# Unpublished Works in the Public Domain as of January 1, 2007!

- Unpublished works from authors who died before 1937
- Unpublished anonymous, pseudonymous and corporate works made for hire created before 1887 [IOW 120 years of protection]

# Unpublished Works Still Protected as of January 1, 2007!

- ➔ Unpublished works created before 1978 that were published after 1977 but before 2003 are protected until January 1, 2048.

# Unpublished Works Still Protected as of January 1, 2007!

➡ Unpublished works created before 1978 that were published after December 31, 2002 are protected by the life of author plus 70 years.

➡ As above though, if the author died before 1937, the work is PD.

# Unpublished Works Still Protected as of January 1, 2007!

- ➡ Unpublished works when the death date of the author is unknown are protected for 120 years
- ➡ As above though, works created before 1887 are PD.

# For OHP There May Be Other Issues:

- 👓 Privacy concerns
- 👓 Confidentiality
- 👓 First publication rights may have been granted to someone else
- 👓 Liability for content
- 👓 Defamation
  - 👓 Spoken = slander
  - 👓 Written = libel

On to Something

Else that Might Be Considered  
for Your OHP:

§107 of the © Law – an  
Essential Academic Right:

Fair

Use

In order to invoke Fair Use,  
you must balance your right to use  
someone else's intellectual property for  
educational purposes with those exclusive  
rights that any copyright owner is  
guaranteed by  
the Copyright Law.

This balancing act is outlined in the  
Copyright Law as the  
Four Factors  
of  
Fair Use:

# The Four Factors to Satisfy (or Balance) Are:

- ① **Purpose:** why are you using someone else's stuff?
- ② **Nature:** what kind of stuff is it?
- ③ **Amount:** how much of that stuff are you using?
- ④ **Effect:** by using that stuff, are you taking any money away from the copyright owner?

'99 Court of Appeals  
Decision:

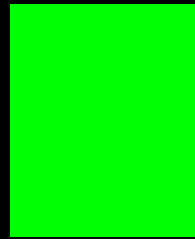
Thumbnails are  
fair use!

You can use thumbnails  
on the Internet

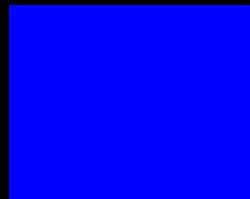
# What's a Thumbnail?

An image of:

100 pixels x 125 pixels



125 x 100





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# Make Use of the IUPUI Fair Use Checklist:

Courtesy of Dr. Kenny Crews, IUPUI's  
Copyright Management Center

<http://copyright.iupui.edu/checklist.htm>

A copy is in your packet.

# Are There Copyright Implications in Your OHP?

Usually an interviewer and  
And interviewee.

What kind of permissions – if any – are  
needed to capture OH in interviews?

## Furthermore...

# What ARE the copyright implications in the following 3 video clips?

## © Ownership? Fixation?

- © Author [interviewee & interviewer = joint authorship?]
- © Performer?
- © Audiographer or videographer? Editor?

## © Who Owns the Section 106 Exclusive Rights?

- © Reproduction?
- © Distribution?
- © Public performance/Public display?
- © Derivative work?
- © Moral rights?

# A Gentle, 2x4 Reminder: The Six Exclusive Rights that Pertain to Your OHP.

License/Obtain These Rights from Everyone:

- ★ **Reproduction rights**
- 🕒 **Distribution rights**
- 🕒 **Public performance rights**
- 🕒 **Public display rights**
- 🕒 **The right to allow derivative works**
- 🕒 **Moral rights [for visual arts]**

# Always Get a License!

- ✓ Signed permission of interviewee
- ✓ Signed permission of interviewer
- ✓ Signed permission from all others in OH project:
  - F Videographer/Audiographer
  - F Editor?
  - F Transcriber?
  - F Who else?

# Licensing

- 🌐 Everyone needs to assign their rights – in writing - to the OH Project
- 🌐 Spell out what is being given to the OHP
- 🌐 If a work-for-hire, spell out what the terms of pay and conditions of ownership are
- 🌐 Unless PD and a friend performing background music: Get a synchronization license from ASCAP, BMI or SESAC

# 5 Licensing Examples:

from simple to complex

Get a signed release form.

Explain what is being signed.

Explain Exclusive Rights.

Be generous.

Be legal!

# Orphan Works?

Be cautious.

The promised legislation  
is in limbo.

OR, SEARCH SPECIFICALLY FOR:

Choose one



Resources

- Articles & Databases
- Ball State Virtual Press
- CardCat
- Course Reserves
- Digital Commons
- Digital Media Repository
- Help
- Interlibrary Loan
- Media Finders
- My Account
- Previous Homepage
- Services
- Training

Library Links

- Ask a Librarian
- Copyright and Intellectual Property Office
- Friends of Bracken Library
- Giving to the Libraries
- Hours and Calendars
- Libraries' Intranet
- Mobile Access
- Suggestions
- Workshops

IT Departments

- Information Technology
- University Computing Services
- University Libraries
- University Teleplex

For more information, contact library@bsu.edu Ball State University Muncie, IN 47306-0161

Circulation: 765-285-5143 Reference: 765-285-1101 Fax: 765-285-2644

Ball State University 2000 W. University Ave.

Copyright and Intellectual Property Office University Libraries

UNIVERSITY TELEPLEX UNIV. COMPUTING SERVICES

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<p>BSU Copyright Compliance</p> <p>Copyright for Students</p> <p>Copyright for Distance Educators</p> <p>TEACH Act Compliance</p> <p>The DMCA Agent &amp; the DMCA</p> <p>Intellectual Property Issues</p> <p>TEACH Act Clearance Form</p> <p>Copyright FAQs           <ul style="list-style-type: none"> <li>Basics</li> <li>The Internet</li> <li>Face-to-face Teaching</li> <li>The TEACH Act</li> </ul> </p> <p>IUPUI Fair Use Checklist</p> <p>US Copyright Office</p> <p>Copyright Office Support</p>	<p><b>Helpful Videos</b></p> <p>Student Rights</p> <p>Plagiarism</p> <p>IT &amp; Copyright</p> <p>Royalty Free Materials</p> <p>Copyright Presentations           <ul style="list-style-type: none"> <li>Open-captioned Version</li> </ul> </p> <p>Copyright Office Introduction</p> <p>Music Downloading Video</p> <p>Video Transcripts</p> <p>Cool Video: What Do You Think About Intellectual Property?</p>	<p>Royalty Free Music for Teaching and Learning</p> <p>Royalty Free Pictures</p> <p>Royalty Free Sites</p> <p>Digital Media Repository</p> <p>Video &amp; Audio Podcasts</p> <p>Free Materials in Bracken</p> <p>Read Free Online Books</p> <p>Free Retro Ringtones</p>
<p><b>In the News</b></p> <p>2008 Copyright Conference</p> <p>Orphan Works Act of 2006 (70kb PDF)</p>	<p><b>Fair Use &amp; The TEACH Act</b></p> <p>Copyright &amp; Fair Use</p> <p>Fair Use Background</p> <p>The Four Factors of Fair Use</p> <p>Exclusive Rights &amp; Fair Use</p> <p>The TEACH Act of 2002</p> <p>The TEACH Act Tutorial (PowerPoint file)</p>	<p><b>More on Copyright</b></p> <p>Public Performance Rights</p> <p>Licensing</p> <p>Additional Copyright Resources</p> <p>When Permission Is Not Needed</p>
	<p><b>Questions?</b></p> <p>Please contact the Copyright and Intellectual Property Office</p> <p>Request a Presentation</p> <p>Copyright Office Support of Teaching &amp; Learning</p> <p>Dr. Fritz Dolak Manager FDolak@bsu.edu 765-285-5330</p> 	

SECOND EDITION

# Copyright Law for Librarians and Educators

*Creative Strategies and Practical Solutions*



KENNETH D. CREWS

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Paramount Pictures. All Rights Reserved.

# A Shameless Promotion!

Copyright in Oz: Over the rainbow or  
I'll get your little dog, too?

April 23, 2008

- David O. Carson, J.D., Associate Register, US. Copyright Office
- Kenneth Crews, J.D., Columbia University
- Dwayne Buttler, J.D., University of Louisville
- Michelle Cooper, J.D., Bose McKinney LLP
- James Williams, J.D., DeFur Voran LLP

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