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# Intellectual Property

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# Intellectual Property

*“The gift that keeps on giving.”*

Paul Royster, Coordinator of Scholarly Communications  
University of Nebraska-Lincoln Libraries  
June 9, 2016

- 1) Copyright:** words, music, performance, graphic arts  
U.S. Copyright Office (Library of Congress)  
*automatic*

©
- 2) Trademark:** signs, symbols, commercial identity  
U.S. Patent and Trademark Office  
*long legal application process*

TM
- 3) Patent:** objects, processes, manufactures, formulae  
U.S. Patent and Trademark Office  
*very long legal application process*

®

# Registration of Copyright

- Not required for copyright ownership.
- Necessary to collect damages in suit for infringement.
- At U.S. Copyright Office: \$35 fee.
- Also offered by dissertation services for slightly more.



# What does copyright give you?

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## Exclusive rights to:

1. copy and distribute
2. perform
3. create derivatives
4. license others to do the above



# Forever? . . . Well, almost.

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## Current terms:

Personal works: Life of author + 70 years

Corporate works: 95 years



# Requirements for copyright

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1. creative act

2. fixed form



# You cannot copyright

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- facts
- data
- general knowledge
- public domain works
- U.S. government works

**FACT**



# You can copyright

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Your particular way of expressing yourself, or your particular combinations of language, choreographed movements, gesture, sound, etc.

**style**

# Transfer of copyright

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- Must be by contract or legal instrument: no implied transfer.
- Sought and held by most publishers, who control vast amounts of intellectual property.
- Most author/creators have lost control of their original intellectual property.



# Exceptions to copyright exclusives

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- 1) “Fair use”
- 2) Library preservation
- 3) Instructional use
- 4) “open access” licenses



# “Fair use” (§107)

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“ the fair use of a copyrighted work, including such use by reproduction in copies ... for purposes such as criticism, comment, news reporting, teaching (including multiple copies for classroom use), scholarship, or research, is **not** an infringement of copyright. ”



# The 4 Factors in “fair use”

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1. Nature of the use
2. Nature of the work
3. Portion of the work
4. Effect on value of the original



# Instructional exemption §110:

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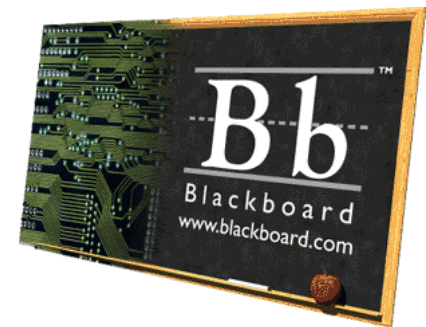
“A copyrighted work may be displayed under the supervision of an instructor as part of a class offered by an accredited nonprofit educational institution if it is directly related to the content, and is limited to students officially enrolled in the course.”



# So an instructor may ...

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- read or display a copyrighted work in class
- distribute a section of a copyrighted work
- place a copyrighted work on electronic reserve at the Library
- place a copyrighted work on Blackboard or other course management system



# “Open access” licenses

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“Creative Commons” licenses can be attached by the holders of copyright. These permit others to reproduce, alter, redistribute, and create derivatives, subject to certain attribution or non-commercial requirements.





# Ownership by UNL ?

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- **Scholarship & creative activity:** Faculty own it.
- **Course materials:** Faculty own it, but UNL has license to retain and use them.
- **Substantially supported products:** UNL owns, but author has rights to re-use and share in profits (for support “in excess of the norm”).
- **University initiated & funded:** work for hire; UNL owns it.



# When in doubt . . . .

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Work it out beforehand !



# Contact: Copyright or publishing help, advice, consulting, etc.

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