

## A Word about Obtaining Permissions from Copyright Owners

The Multimedia Learning Center (MMLC) in the Weinberg College of Arts and Sciences at Northwestern University has substantial experience in negotiating with content owners for permission to utilize copyrighted materials in Northwestern University classrooms. If you have questions or need advice before you begin the process of obtaining permission, please contact the director of the center, Janine Spencer at j-spencer@northwestern.edu or by phone at 847 491-7716.

While the MMLC can offer guidance and assistance with all phases of negotiation, the responsibility for obtaining the permissions to use copyrighted materials rests with the faculty who will use the copyrighted materials.

Obtaining permissions to use materials from publishers and content owners can take substantial periods of time; sometimes phone calls and letters will go back and forth for six months before permission is granted. Sometimes it takes only a couple emails.

If you wish the MMLC to distribute any copyrighted materials, we require *written permission from the content owner before we begin* duplicating, digitizing or distributing materials.

### Guidelines

Here are some guidelines that can help streamline the permissions process:

- Find the “content owner,” not the distributor. Viacom may distribute a video, but someone else may own the content. Usually the distributor can lead you to the content owner, but if you can get directly to the content owner, you can save time.
- Be honest with the content owner. If your intention is to turn parts of a film into QuickTime movies to be viewed via a password protected website at NU, then say so. Asking for “lesser” permissions, like making VHS copies, and then streaming materials over the web is just as much as violation as not getting any permission at all. Get the correct permissions, and use the materials as you agreed.
- Make sure that you get the permissions in writing, with ink signatures from both an NU representative (the faculty member) and an authorized person from the content owner side. An email is rarely acceptable; a paper letter on their letterhead is best.



## Permission

Permission **letters should include** several important factors:

- Northwestern University, not the faculty member's name, should be listed as the entity that has the rights to use the materials.
- There should be a period of time noted during which NU may use the materials. If you can negotiate a longer period of time, you save yourself the process of obtaining extensions of permission agreements.
- There should be clear, plain language regarding the ways in which NU may use the materials (i.e. duplicated on videotapes, viewable in password-protected websites and available only to the students enrolled in a particular class or classes).
- There should be clear language that indicates the content owner does indeed own the permissions that they are licensing to Northwestern.
- There should be a financial cost associated with the rights licensed within the agreement. This creates compensation for the rights they have licensed. This does not have to be a substantial cost, but a penny or 25 cents is not adequate.
- Any costs for the use of these materials should be noted in the permissions letter, and a copy of the method of payment (such as a purchase order or credit card receipt) should be attached to the letter.
- The letter may be in the native language of the content owner, and an English translation of the agreement should also be provided.

Once permission is obtained, please provide that proof to the MMLC and we can begin the process of duplicating videotapes, audiotapes, or digitizing materials and placing them on media servers within the purview of the MMLC or even other servers at NU.

## A Word about Copyrights

Films, CDs, CD-ROMs, paintings, prints and other published works are protected by copyright. It is not permissible to duplicate, redistribute, or edit copyrighted works without prior consent from the copyright holder; the Copyright Act of 1976 defines this very clearly.

The Copyright Act of 1998 extends copyrights further and requires institutions to make their constituents aware of these issues, extends the period of time that a work remains copyrighted, and most importantly, places responsibility for copyright



infringement not with the entity (Internet Service Provider) who makes it available, but rather, the person responsible for the creation of the website that serves the material in violation. Most often at NU, the person responsible is a faculty member.

However, the argument is not black and white, for there are numerous complexities and exceptions to copyright law. One point, for example, concerns work created in the United States before 1925. Copyright law did not exist in the United States until 1925.

And yet, it is not the case that every work before 1925 is in the public domain. The 1998 Millennium Copyright Act extends previous copyright time lengths, and the WIPO (the World Intellectual Property Organization) treaty requires the US to uphold copyrights on works created in other countries, even if our copyright law was not in existence at the time. See <http://www.loc.gov/copyright/wipo/> for further information.

Furthermore, institutions claiming to have copyright of the **reproduction** of an artwork are often challenged as not having any legal basis for claiming this right since a reproduction is not an original work. These challenges have yet to be heard in a court of law yet, and as such they have little legal precedent behind them. In other words, it is not a safe bet to assume that a photo of an eighteenth century painting is in the public domain, or an early 20<sup>th</sup> century recording of classical music is not copyrighted.

Other exceptions occur under the **Fair Use clause** of the US Copyright law. In academic circles, the concept of Fair Use most often protects practices like copying an artwork or film and projecting it inside a classroom, or inside a password protected website intended for educational use. Fair Use does not protect uploading images of artwork to websites that are available to the world at large. Even if the website has restricted access, an educator can still be found in substantial violation of copyright law by simply copying too much of one film or by editing the content of the film even if only intended for the classroom.

While a complete discussion of copyright is beyond our work here in this document, it is important to note that creating a digital copy of a copyrighted work *can be* a violation. This document should not be constructed as giving advice on circumventing copyright law. For more information about copyrights and your rights please refer to following contacts:

Multimedia Learning Center (Kresge 50) - Janine Spencer, 847/491-7716,  
j-spencer@northwestern.edu



NU's Legal Council on Copyright - Anne Adams, 467-7554,  
ann-adams@northwestern.edu

## Useful Websites

Copyright Resources on the Internet: <http://groton.k12.ct.us/mts/pt2a.htm>

Version 33 of the Scholarly Electronic Publishing Bibliography is now available. This selective bibliography presents over 1,220 articles, books, electronic documents, and other sources that are useful in understanding scholarly electronic publishing efforts on the Internet. Includes links to related sites.

HTML: <http://info.lib.uh.edu/sepb/sepb.html>

US Copyright Office: <http://lcweb.loc.gov/copyright/>

For those who subscribe to it there is the Chronicle of Higher Education's Fair use Guidelines for Educational Multimedia:

<http://chronicle.com/che-data/focus.dir/data.dir/1016.96/fairuse1.htm>

If you have further questions about copyright, and obtaining permissions to use copyrighted material, please contact the director of the Multimedia Learning Center, Janine Spencer, at [j-spencer@northwestern.edu](mailto:j-spencer@northwestern.edu) or 847-491-7716.

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