

Glossary

Accredited: Approved by a regional or national accrediting agency. Non-profit educational institutions that qualify for TEACH Act exemptions must be accredited. K–12 schools are recognized as accredited by applicable state certification or licensing boards. Accredited higher educational institutions are approved by a regional or national accrediting agency recognized by the Council on Higher Education and Accreditation or the U.S. Department of Education.

American Society of Composers, Authors, and Publishers (ASCAP): A performing rights society that licenses rights to perform non-dramatic musical works.

Berne Convention Implementation Act of 1988: A U.S. law (P.L.100-568) that amended the copyright law to implement international copyright treaties agreed upon at the Berne Convention for the Protection of Literary and Artistic Works.

Broadcast Music International (BMI): A performing rights society that licenses rights to perform non-dramatic musical works.

Catalog of Copyright Entries (CCE): A resource maintained by the U.S. Copyright Office listing all works registered for copyright protection for the years 1891–1982. Works registered after 1978 can be found in an online searchable database available via the U.S. Copyright Office Web site (www.loc.gov/copyright).

Circumvention: The act of bypassing a technological device or system (passwords, encryption, watermarking) to gain access to or copy a work.

Click-on or click-wrap license: A non-negotiated license that appears on a computer screen when accessing resources on the Web, such as an online newspaper. Acceptance of the license terms occurs when a user clicks on a consent or “accept terms” box to gain access to the digital resource.

Collected work: A compilation of several individual works that may each be protected by copyright.

Common law: Law derived from judicial decisions.

Compilation: A work made up of preexisting data or materials selected and arranged in a creative and novel way so that the resulting work qualifies for copyright protection.

Compulsory license: A license created by Congress that allows certain parties the right to use copyrighted works without prior permission of the copyright holder in exchange for a specific royalty fee.

Computer Fraud and Abuse Act of 1986: A U.S. law prohibiting fraud and related activity in connection with computers.

Conference on Fair Use (CONFU): Meetings of copyright holders’ and users’ groups to discuss fair use issues, and if appropriate fair use guidelines, convened by the Information Infrastructure Task Force, Working Group on Intellectual Property Rights from 1994 to 1998.

Contributory infringement: The act of contributing to or aiding the infringing acts of another person.

Copyright: A set of exclusive rights awarded to a copyright holder for an original and creative work of authorship fixed in a tangible medium of expression. Copyright is a limited statutory monopoly that gives a copyright holder the sole right to market a work for a limited period of time. Copyright also includes exemptions that permit a user of the copyright-protected work the right to exercise an exclusive right without authorization or royalty payment under certain conditions.

Copyright Clearance Center (CCC): A copyright royalty clearinghouse that collects permission fees for the use of copyrighted works (primarily journal articles) on behalf of publishers and other copyright holders. CCC also offers blanket license agreements to for-profit and non-profit institutions for the use of copyrighted works.

Copyright management information (CMI): Identifying information conveyed in connection with a work, such as title, author, copyright holder, terms of use, identifying numbers like an ISBN, and other information that the Register of Copyright may require be included.

Creative Commons: A non-profit organization that promotes the creative reuse of intellectual works, whether owned or in the public domain, through the use of licenses that define the rights copyright holders choose to retain and those uses that may be made of copyrighted works without the prior permission of the copyright holder.

Deep linking: Hyperlinking to a specific address within a Web site, bypassing the Web site home page.

Derivative work: A copyrightable work based on an existing work, such as a translation or dramatization of a work. The right to create derivative works is an exclusive right of the copyright holder.

Digital rights management (DRM): "A system of information technology components and services, along with corresponding law, policies and business models, which strive to distribute and control intellectual property and its rights. Product authenticity, user charges, terms-of-use and expiration of rights are typical concerns of DRM" (National Institute of Standards and Technology).

Digital Millennium Copyright Act (DMCA) of 1998: An amendment to the copyright law that sought to address new copyright concerns in the digital environment.

Dramatic literary works: Copyrighted works that involve a dramatic presentation, such as an opera or a play.

Exclusive rights: The rights of the copyright holder to reproduce, distribute, publicly perform, and display a work and to create derivative works based on the original.

Fair use: A concept defined in section 107 of the copyright law that allows a user to exercise an exclusive right in certain circumstances without the prior authorization of the copyright holder and without paying a royalty or permission fee. Also the defense in an infringement suit.

First sale doctrine: A concept defined in section 109 of the copyright law that allows an exemption to the exclusive right of distribution. When one lawfully acquires a copy of a protected work, she can dispose of, sell, or lend that copy to another.

Fixed in tangible medium: The perceptible, physical form of creative expression, such as words in a book or music on a compact disc. Also one of the requirements for copyright protection.

GNU General public license: A license developed by the Free Software Foundation that allows and encourages the sharing and modification of free software as long as the same license is retained with any new version of the software that may be created.

Harry Fox Agency: A copyright clearinghouse and licensing agency for the music industry.

Innocent infringement: A violation of copyright without knowing that one has done so.

Infringement: The act of violating one or more of a copyright holder's exclusive rights.

Liability: Responsibility for an illegal offense, enforceable by civil remedy or criminal punishment.

Linking: Providing a link from one Web site to another Web site.

Mediated instructional activities: Teaching activities that can be exempt from copyright under the TEACH Act, if they are integral to the course, under the direction of the course instructor, and analogous to the kinds of performances or displays one would expect in a physical classroom.

Misappropriation: Using someone else's property or money dishonestly for one's own gain.

National Commission on New Technological Uses of Copyright Works (CONTU): A group created by Congress in 1979 to address the use of new technologies (computers and photocopiers). CONTU recommended that original and creative computer programs be afforded copyright protection and that new original works created through the use of computers be afforded copyright protection, and created guidelines addressing interlibrary loan and photocopying (CONTU guidelines).

Non-dramatic literary works: Literary works without a dramatic presentation, such as poetry, novels, and factual works.

Online service providers (OSPs): Service providers that offer transmission and routing or provide connections for digital online communications but do not create or modify the content of material sent or received (per the DMCA).

Patent law: A form of intellectual property law that protects novel, useful, and non-obvious inventions or processes.

Peer-to-peer file (p2p) sharing: Using specific software programs to transfer files from one computer to another.

Performing rights society: Performing rights societies "collectively" license the right to publicly perform the broad range of non-dramatic musical works encompassed in each agency's portfolio, some of which are searchable on their respective Web sites.

Phonorecord: A tangible object from which sounds are fixed and can be heard, communicated, or distributed either directly or through the use of a machine.

Public display: A display of a work before a group larger than a family or a small group of friends or at a place open to the public.

Public domain: The realm of works not protected by copyright.

Public performance: Performance before a group larger than a family or small group of friends or in a place open to the public.

Reverse engineering: The scientific method of taking something apart to figure out how it works.

Right of attribution: A moral right that ensures that a creator is correctly identified with the work she creates and not identified with works she did not create.

Right of integrity: A moral right that protects works from modification, destruction, distortion and mutilation.

Rule making: A process initiated by a government agency to create or amend a rule or regulation.

Shrink-wrap license: A non-negotiated license enclosed in the packaging of some software and other products. Acceptance of the license terms occurs when a customer opens the shrink-wrap packaging.

Society of European Stage Authors and Composers (SESAC): A performing rights society that licenses rights to perform non-dramatic musical works.

Sonny Bono Copyright Term Extension Act of 1998: An amendment to the copyright law that extended the term of copyright protection by twenty years.

State sovereign immunity: State governments' immunity from being sued in federal courts.

Statute of Anne: The English copyright act of 1709, which gave authors copyright protection for their works.

Sweat of the brow: A legal doctrine, challenged in the Feist decision, which held that the time and effort one commits to collecting data or compiling a work (such as telephone listings) does not qualify that work for copyright protection.

Technology, Education and Copyright Harmonization (TEACH) Act of 2002: An amendment to the copyright law that updated sections 110 and 112 to allow for the public performance and display of copyrighted work in digital forms and to be transferred through digital networks for teaching purposes at accredited non-profit, educational institutions.

Technological protection measures: Digital technologies or software used to control access to or copying of copyrighted works, such as password protection and watermarking.

Time shifting: Copying a television program or other copyrighted work to view or use at a later time.

Trade secret: A form of intellectual property that protects company "know-how," like the secret recipe for Pepsi.

Trademark: A form of intellectual property that protects logos, slogans, and other marks associated with a particular product.

Trespass to chattels: Physically interfering with the property of another.

Uniform Computer Information Transactions Act (UCITA): A proposed state-level law that would make non-negotiated shrink-wrap or click-on licenses legally binding.

Vicarious infringement: A person's liability for the infringing acts of another even though the person did not infringe them herself.

Visual Artist Rights Act (VARA) of 1990: an amendment to the copyright law that provides artists who create a narrow class of artistic works the moral rights of integrity and attribution.

Work for hire: A copyrightable work created by an employee or a contractor hired to do so.

Complete Copyright

AN EVERYDAY GUIDE FOR LIBRARIANS

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