



Tuesday's Tip

information provided by Adriance Memorial Library to make your life a little bit easier

Understanding Copyright, Public Domain & Fair Use

October 20, 2015

Happy Birthday to everyone! Happily indeed for television shows, movies, & chain restaurants, a federal judge has ruled that the Happy Birthday Song is in the public domain, free for all to use without licensing. But what about other intellectual property? Published or un-published, all manner of materials (including letters and diaries, believe it or not) are subject to copyright law. Copyright laws have changed drastically over the years, and there is no simple answer that can be applied across the board.

How can you know what is copyright protected and what is in the public domain? And what is fair use? Thankfully, Cornell University has created the very handy [Copyright Information Center](#) for their students & faculty, a resource that provides researchers with guidelines to determine what materials are copyrighted, and what are considered public domain.

The FAQ's section provides a link to a [comprehensive chart](#), created by Peter Hirtle, indicating the status of copyright protection based on the date of creation and type of material:

Copyright Term and the Public Domain in the United States 1 January 2015 ¹		
Never Published, Never Registered Works ²		
Type of Work	Copyright Term	What was in the public domain in the U.S. as of 1 January 2015 ³
Unpublished works	Life of the author + 70 years	Works from authors who died before 1945
Unpublished anonymous and pseudonymous works, and works made for hire (corporate authorship)	120 years from date of creation	Works created before 1895
Unpublished works when the death date of the author is not known ⁴	120 years from date of creation ⁴	Works created before 1895 ⁴
Works Registered or First Published in the U.S.		
Date of Publication ⁵	Conditions ²	Copyright Term ³
Before 1923	None	None. In the public domain due to copyright expiration
1923 through 1977	Published without a copyright notice	None. In the public domain due to failure to comply with required formalities
1978 to 1 March 1989	Published without notice, and without subsequent registration within 5 years	None. In the public domain due to failure to comply with required formalities
1978 to 1 March 1989	Published without notice, but with subsequent registration within 5 years	70 years after the death of author; if a work of corporate authorship, 95 years from publication or 120 years from creation, whichever expires first
1923 through 1983	Published with notice but copyright was not renewed ⁶	None. In the public domain due to copyright expiration
1923 through 1983	Published with notice and the copyright was renewed ⁶	95 years after publication date
1984 through 1977	Published with notice	95 years after publication date
1978 to 1 March 1989	Created after 1977 and published with notice	70 years after the death of author; if a work of corporate authorship, 95 years from publication or 120 years from creation, whichever expires first
1978 to 1 March 1989	Created before 1978 and first published with notice in the specified period	The greater of the term specified in the previous entry or 31 December 2047
From 1 March 1989 through 2002	Created after 1977	70 years after the death of author; if a work of corporate authorship, 95 years from publication or 120 years from creation, whichever expires first
From 1 March 1989 through 2002	Created before 1978 and first published in this period	The greater of the term specified in the previous entry or 31 December 2047

For more information or other reference and collection development assistance, call the Reference & Information Desk at Adriance Memorial Library at (845) 485-3445 x 3702 or (800) 804-0092 x 3702.

So, what do you do if you discover the material you are hoping to utilize is copyright protected? Depending on your plans for the material, it may fall under the Fair Use Doctrine, which means you do not need to seek permission or pay a licensing fee to reproduce or otherwise use the material. The Copyright Information Center provides a [Fair Use Checklist](#) to fill out, to help you to understand whether your project actually falls under fair use guidelines:

CHECKLIST FOR CONDUCTING A FAIR USE ANALYSIS BEFORE USING COPYRIGHTED MATERIALS

This checklist is a tool to assist you in applying the balancing test for determining whether you may make or distribute copies of works protected by copyright without having to obtain the permission of the copyright holder.¹ It is recommended that you complete and retain a copy of this form in connection with each "fair use" of a copyrighted work.

Name: _____ Date: _____

Class or Project: _____

Title of Copyrighted Work: _____

Portion to be used (e.g. pages): _____

Directions: Check all boxes that apply. For each of the four sections below, determine whether that factor favors or disfavors a finding of fair use. Where the factors favoring "fair use" outnumber the factors weighing against a finding of "fair use," reliance on the fair use exception is justified. Where less than half of the factors favor "fair use," permission should be obtained before copying or disseminating copies of the work. Where the factors appear evenly split or you have questions about interpretation, please feel free to contact or Patricia McClary in the Office of University Counsel (5-5126; pam4@cornell.edu) or the Copyright Information Center (www.copyright.cornell.edu).

PURPOSE OF THE USE

<p>Favoring Fair Use</p> <p><input type="checkbox"/> Educational</p> <ul style="list-style-type: none"> • Teaching (including multiple copies for classroom use) • Research • Scholarship • Criticism • Comment <p><input type="checkbox"/> Transformative or Productive use (changes the work to serve a new purpose)</p> <p><input type="checkbox"/> Nonprofit use</p> <hr/> <p><input type="checkbox"/></p>	<p>Disfavoring Fair Use</p> <p><input type="checkbox"/> Commercial, entertainment or other</p> <p><input type="checkbox"/> Non-transformative, verbatim/exact copy</p> <p><input type="checkbox"/> Profit-generating use</p> <hr/> <p><input type="checkbox"/></p>
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NATURE OF THE COPYRIGHTED MATERIAL

<p>Favoring Fair Use</p>	<p>Disfavoring Fair Use</p>
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For even more detailed information, or to learn how to copyright & protect your own intellectual property, visit the [U.S. Copyright Office](#) .