

Copyright Guidelines

The copyright information below is only a general guide. For specific questions and final legal authority to insure that you are in compliance, contact an Intellectual Property lawyer. Because copyright concerns of documentary filmmakers parallel many of those you will encounter, I have chosen to summarize the “Documentary Filmmakers’ Statement of BEST PRACTICES IN FAIR USE” . You can view the entire document at www.centerforsocialmedia.org/fairuse

First some definitions:

copyright- secures exclusive rights to authors* and their writings for 70 years after the demise of the author

*author = writers, composers, photographers, designers, and performers (actors, speakers, musicians, dancers etc)

public domain – material was translated, produced/created/published before 1922 and which may be used without securing permission

free use – contemporary images captured on film which may be used without obtaining copyright permission. See site above for full list.

fair use – is a key part of the social bargain in which we as a society concede certain limited individual rights to ensure the benefits of creativity to a living culture. It is the unlicensed use of copyright material that is “fair” according to the “rule of reason.”

To support a “fair use” claim, you must be able to show that:

- your project was not specifically designed around the material in question
- the material serves a critical illustrative function, no suitable substitute exists
- use is limited to what is necessary to make the point for which the material was selected
- a single source has not provided a disproportionate amount of illustrative clips

- the copyright owner of the material used is properly identified

Two additional conditions may make it easier to argue “fair use” in the case of the ATME Journal. First, education/dissemination of knowledge is one of its objectives. Second, no one will accrue any financial gain from the publication of their articles.)

copyright notice – the non-mandatory, recommended way of protecting your completed work. Simply list three things on your completed work: the copyright symbol, your name and the year it was completed. This must appear on the title page of an article when it is submitted.

copyright registration – registration of your work with the Copyright Office. This is recommended but only required if you intend to enforce your rights in court. To access the Copyright Office, www.lcweb.loc.gov/copyright

Additional information may be obtained at www.centerforsocialmedia.org/fairuse

Some common questions:

How can I decide if the copyrighted material I want to use is “fair use” according to the “rule of reason?”

Two general guidelines are helpful:

1. Was the unlicensed material used for a *different* purpose than the original? (as contrasted with just repeating the original for the same intent and value)
2. Was the amount and nature of the unlicensed material used appropriate in light of the nature of the original work?

If you can answer “YES” to both these questions, a court may be likely to find “fair use.”

Regardless of on or off-camera use, what if actors are saying lines from a play or some other published text in my kinetic article? Do I need copyright permission?

IF the *publisher* has copyrighted it and IF it was published, translated or copyrighted after 1922, YES you do, according to current “Copyright Term and the Public Domain in the United States” regulations. Also check regulations for unpublished copyrighted texts. For complete information click on <file:///C:/DOCUME-1/LOCALS-1/Temp/IXIIQGLQ.htm>

How can I completely avoid the whole copyright issue?

1. Use public domain materials only
and/or
2. Create all original materials (sound, text etc)

If I have original music and a new play, don't I still need some kind of permission to “publish” it in my kinetic article?

Yes. While no copyright permission is needed, signed consent release forms are required. See Appendix for sample “Musician Release Form” which can be adapted for use of the “intellectual/creative property” of any artist.

Most academic and arts organizations have Intellectual Property legal council. If you have any questions, it is important to receive a legal opinion. Regretfully, neither ATME nor the Editorial Board can supply this service.