Guidelines for Using Copyrighted Material in Coursera MOOCs

Preliminary Comments:

- Educational exceptions under the Copyright Act that allow use of copyrighted works in both the face to face teaching environment and, under certain conditions, online classrooms do not apply to MOOCs offered through Coursera. Coursera is a for-profit company, and these exceptions require the entity using copyrighted works to be a non-profit institution. Further, the open environment of MOOCs does not meet the security requirements of the TEACH Act. Fair use does apply to MOOCs but the criteria for using the fair use doctrine of copyright law are restrictive in the context of offering online education to the general public via a for-profit provider such as Coursera. Generally, Coursera advises against the use of copyrighted materials unless permission has been obtained. The fair use doctrine is discussed in greater detail below.

- Coursera has identified the following content as “Prohibited Material” in their Copyright Guidelines: political cartoons, Getty images, popular movies, television shows, popular songs, and trademarks. These guidelines make clear that such content can only be used with permission or where a fair use case for the use is strong. (See more on this below.)

- Public domain works are works that are no longer protected under U.S. copyright. U.S. governmental works also are not subject to copyright protection. Depending on the nature of a course, public domain resources may be extremely useful. Works that are open access or licensed through Creative Commons may also be used in a Coursera course without permission. Your department’s library liaison can provide assistance in identifying public domain and licensed resources that might be used in your Coursera courses.

- Whenever practicable, Coursera advises instructors to create their own content. For example, rather than relying on an existing graph or chart, an instructor could make it herself. Further, whenever possible, instructors should provide links to the article, image, or clip they wish students to view, rather than making a copy of the article, image, or clip. Providing URLs and pointing students to the source of content on the web is lawful. Instructors should ensure that they are pointing to a legitimate source for the content. That is, the website to which an instructor links (e.g., YouTube) should have the authority to host or post the content. Another best practice is to provide a top level link so that the students view the content from the original source; as a general rule, deeply embedded content should not be pointed to directly.

- In all cases, instructors should make an attribution to the original source in their slides or other class materials. Many of the licenses that allow use of materials
without seeking further permission, including Creative Commons licenses, require that attribution be made to the original source. Such acknowledgement is also good scholarly practice. If including attribution on the particular slide or at the time when the work is used would harm the flow of the instruction, the acknowledgment may appear at the end of an individual lecture.

- The predominant consequence of an allegation of copyright infringement is that a course will immediately be taken down from the Coursera site. Coursera has registered an agent to receive so-called “take down” notices and thus intends to take advantage of the safe harbor provision of the Digital Millennium Copyright Act, which provides protection to online service providers when they act quickly to remove contested content. Due to the scrutiny and disruption that would result from a course being taken down, instructors should take every precaution to prevent this from occurring.

**Fair use:**

Application of fair use to the reproduction, display or other use of a copyrighted work in a course requires the analysis of four factors: the purpose of the use, the nature of the copyrighted work, the amount of the work used, and the effect upon the market for the work. Uses that are transformative or that are critiques or comments on the copyrighted work tip the balance in favor of fair use. The guidelines below represent judgments about when fair use in a Coursera course is most defensible. They are not definitive, and each use should be evaluated in the context of the four fair use factors.

**Textual Material**

- Using short quotations from books, articles, or other textual materials that are incorporated into a lecture and/or the accompanying slides are generally fair use and do not require permission.

- Distribution of more text than a long quotation should generally be done only with the permission of the copyright owner. The copyright owner may or may not be the author; many publishers require a transfer of copyright when publishing an article or book. The Scholarly Communications Librarian can assist with determining who owns copyright for purposes of requesting permission. (See more on Getting Permission below.)
  - Where the instructor is also the author of the work, whether it is an article or a portion of a book, the publisher is more likely to grant permission.
  - Publishers are also more likely to grant permission when students are encouraged to buy the work being quoted. So, whenever possible, instructors should make a recommendation to purchase the book or
article from which an excerpt is taken and include a link to a site where students can purchase the work.

- A particular article may be available through an open access repository (e.g., PubMed Central), a scholarly society, or a university’s repository. Contact your department’s library liaison for help in researching such resources.

**Images (including graphs and figures)**

- When the use of illustrations, graphs and figures is integral to the point of the lesson, and the picture or figure is subjected to commentary and critical assessment in the lesson, the case for fair use is quite strong. Delivery of image content in a low resolution format also enhances the case for fair use.

- When possible, a licensed substitute (e.g., a Creative Commons licensed image) or a public domain image should be used to depict a subject where a particular picture of that subject is not required.

- If the purpose of the picture is merely to fill space or otherwise embellish lecture slides, these images should generally be removed in order to reduce the burden of clearing copyright without harming the experience of the course.

**Video/Film**

- In any use of film or video, a careful case-by-case fair use evaluation is critical. Coursera’s guidelines state that “popular” films should not be used without permission. Instructors are encouraged to use documentary, educational, or historic films and videos wherever possible. Instructors should also seek out specially licensed or public domain films. Consult with your department’s library liaison for assistance in locating these materials.

- Film or video clips should not be longer than is needed to make the pedagogical point. A stronger fair use case is made when the viewing of the film or video clip is interrupted with instructor discussion and commentary. When a substantial clip of video is incorporated into a lesson and is not intermingled with instructor discussion, permission should be sought. Incorporating significant portions of a video into a lecture diminishes the case for fair use and increases the chances that the course will be subject to a “take down” notice.

- If your course requires use of “popular” or current material, you should consult with the instructional designer and the Scholarly Communications Librarian about fair use and licensing options.
• Whenever possible, provide a link to the film or video. In those cases, students would be directed to follow the link, view the video, and then return to the lecture.

Music/Sound

• In any use of music or other sound recording, a careful case-by-case fair use evaluation is critical. Coursera’s guidelines state that “popular” music should not be used without permission. Instructors are encouraged to use older or classical music wherever possible. Instructors should also seek out specially licensed or public domain sound recordings. Consult with your department’s library liaison for assistance in locating these materials.

• Music clips should not be longer than is needed to make the pedagogical point. A stronger fair use case is made when listening to the music clips is interrupted with instructor discussion and commentary. When a substantial clip of a sound recording is incorporated into a lesson and is not intermingled with instructor discussion, permission should be sought. Incorporating significant portions of music or other sound recordings into a lecture diminishes the case for fair use and increases the chances that the course will be subject to a “take down” notice.

• If your course requires use of “popular” or current material, you should consult with the instructional designer and Scholarly Communications Librarian about fair use and licensing options.

• Whenever possible provide a link to the music or sound recording. In those cases, students would be directed to follow the link, listen to the recording, and then return to the lecture.

Getting Permission

If you determine that permission is needed before incorporating copyrighted materials into your course, the following steps should be followed:

1. Determine who is the copyright holder. The copyright holder is not necessarily the author, composer or creator of the work. Copyright may have been assigned to a publisher, an estate, or a third party licensor. Most publishers provide a link on their web sites to information on permissions requests. For a list of common license agencies, see http://www.k-state.edu/copyright/use/cra.html. The Scholarly Communications Librarian can also assist in determining who is the contact person for permissions if the identity is not readily discernible.

2. Submit a request to use the copyrighted work in your course. Specify in your request the name of the work, how much of the work you intend to use, how the work will be used (include the name of the course and the MOOC platform), why the work is essential to the course, and your contact information. Emory University provides an excellent sample permission letter for use of copyrighted
works in a MOOC. The letter incorporates examples of how past uses of copyrighted works in MOOCs have resulted in increased sales of the work. This can be a very effective tactic for securing permission. See http://cfde.emory.edu/teaching/courseracourseprep/copyrightissues.html

3. Wait for a response. The permissions request time frame can be anywhere from a few days to a few months so instructors should plan accordingly when developing their courses.

4. Weigh the response. If permission is granted and any requested fees are paid, be sure to adhere to any stipulations, such as, to attribution and use. If the publisher denies the request or request payment of royalties that are deemed too expensive, instructors must either remove the copyrighted materials from the course or select alternative works. Proceeding to use the copyrighted works in spite of permission being denied or without paying the requested fees increases the likelihood of a takedown request and possible other legal action.

Additional Information
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http://guides.uflib.ufl.edu/copyright