

Copyright Issues in a Digital World

Authors have attempted to legally protect their work since the fifteenth century, when the invention of the printing press led to the first copyright system. In today's world, copyright protection stretches far beyond the printing press to cover all types of electronic and digital media. Morehouse School of Medicine expects its employees to understand and obey copyright laws when conducting business on behalf of the institution.

Copyright and Fair Use

Copyright gives an author the right to exclusive use of original work for a fixed time period. In some limited cases, copyrighted materials may be used for non-commercial purposes; U.S. copyright law calls this "fair use." If you quote from someone else's written work in a company document such as an annual report, training materials, sales literature, or a website in a manner that exceeds fair use, MSM may be liable for copyright infringement.

Fair use is applied on a case-by-case basis and is not precisely defined. A court would consider four factors when deciding whether or not usage of a copyrighted work is fair:

1. Why and how the work is being used, including whether it is for commercial or nonprofit educational use.
2. The nature of the copyrighted work.
3. How much of the work is quoted, and how that amount relates to the copyrighted work as a whole.
4. The effect of the use on the potential market for or value of the copyrighted work.

Copyright exists so that the creator of the work receives the profits from its sale. Therefore, the courts often put more weight on how the use of the work affects the value of the product. However, they do take all four factors into consideration.

Sometimes people assume that they can avoid copyright issues simply by giving the original author credit. Though that can be an important part of proving fair use, it is not a guarantee of protection from liability. To use copyrighted material, you must have specific permission from the author.

Copyright Goes Beyond Print

Copyright protects written text, art, music, drama and film. Originally, copyright protected the right to print or perform an original work. Today, copyright applies to all kinds of media, including computer software, music, movies and video games. It also protects creative work that is communicated to the public via telecommunications — in other words, via the Internet or through email or blogs. Electronic mail messages, blogs, and web pages are legally protected by copyright and are subject to copyright infringement laws.

Some web content is considered “public domain” and can be used by anyone. Remember that content does not have to be labeled as copyrighted in order to be protected, so you should assume that any content not specifically marked as “public domain” is protected.

The U.S. enacted the Digital Millennium Copyright Act in 1998. Among other provisions, the Act limited the liability of Internet service providers for copyright infringement committed by users of their service. It did require that these providers remove any material from websites that appears to be a copyright infringement. MSM’s website and electronic communications are subject to this law.

Copyright Does Not Protect Ideas

The verdict in a copyright infringement case filed against best selling author Dan Brown’s book, *The DaVinci Code*, is a good reminder about the scope of copyright laws. In this case, an author who had written a non-fiction work dealing with the same ideas as *The DaVinci Code*, a fictional work, sued Brown for copyright infringement. The courts ruled in favor of Brown on the grounds that copyright law does not protect ideas; it only protects the expression of the idea.

To turn an idea into a profitable venture, a company must successfully promote it and prevent others from promoting it. Because copyright does not protect the idea itself -- and also does not protect concepts, systems, or methods -- it is critical to safeguard all of our company’s confidential information. Other intellectual property laws, such as patents and trademarks, may protect certain products that are under development. But to protect that right, we must have hard evidence that our company took adequate steps to protect our intellectual property during this stage.

Your Responsibilities

Copyright laws, especially in the international arena, are constantly evolving as new cases determine fair use in the digital world. Morehouse School of Medicine expects all employees to respect the rights of others. If you are considering the use of copyrighted material for company business, or if you have any questions about copyright protection, speak to your supervisor or contact the Office of the General Counsel.

Questions and Answers

I am preparing a white paper and I want to include information that I gathered doing research. Can I develop some of the ideas that I read in other sources and incorporate them into my paper?

Yes. Copyright protects the expression of an idea, not the idea itself. You cannot use a direct quote from your research without credit and permission, but if you develop an idea in your own words, you are not violating copyright law.

I want to download some free software that I think would be useful for my job. Is this allowed?

Software that is in the public domain may be downloaded without violating copyright laws. However, you should not load or download any software on your company computer without permission from our institution's IT department.

I have found an article in a trade magazine that I think would be useful to all of the employees in my department. May I photocopy the article and put a copy in everyone's mailbox?

Before you distribute the article, you need to get permission from the publisher or author to copy and distribute the article in-house for training purposes. Usually, this permission is granted without further cost.

I want to photocopy an article about our company that was in a magazine, so I can mail it to key customers. Do I need permission to do this?

Yes. Check with the General Counsel before using the article. It is possible that our company may have already purchased a blanket license to republish and reprint this kind of article. If not, you will need to obtain specific permission to copy and distribute the article.