Copyright FAQ [1]

Q: What is copyright?

A: Copyright laws were developed in the United States as a means of encouraging "progress of science and the useful arts." Copyright laws grant the creator (or the owner of the copyright) the rights, within the limits of fair use, to do with their work what they please. The intention is that by creating a financial incentive for a limited time, creators will have a motive for producing more works which will enrich the public.

Q: What rights does copyright grant?

A: Copyright law grants five rights to a copyright owner:

1. the right to reproduce the work
2. the right to create derivative works based on the original
3. the right to distribute copies of a work
4. the right to perform the work publicly
5. the right to display the copyrighted work publicly

For more information regarding these five rights, see: http://www.bitlaw.com/copyright/scope.html [2]

Q: What is fair use?

A: As mentioned, copyright is not an absolute right. In addition to being for a limited time, there are some restrictions on the rights of the copyright owner. These restrictions are collectively known as fair use. Fair use is the right of the public to use copyrighted materials, without the copyright owner’s permission, in certain circumstances. While there are no hard and fast rules regarding what qualifies as fair use, the following guidelines are used to make such a determination. No one factor indicates fair use or not, rather the balance of the answers to all of the questions suggest whether or not a work might be considered to make fair use of copyrighted material.

1. What is the character of the use? (personal, non-profit, criticism, parody, news, commercial, etc.)
2. What is the nature of the work to be used? (facts, imaginative, published, unpublished, etc.)
   Works that are factual or are published support the determination of fair use, while unpublished or imaginative works tend to support a use not falling into the fair use category.
3. How much of the work will be used? Using a small amount of a work weighs on the side of a fair use determination.
4. If the use were widespread, what effect would it have on the market for the original?

By weighing the answers to these questions, a court can determine whether a use of copyrighted material is protected by the fair use exceptions.

Q: What can be copyrighted?

A: Almost any work requiring creative effort can be copyrighted. This would include music, lyrics, writings, paintings, photography, movies, television, etc. Facts can not be copyrighted and currently, collections of facts can not be copyrighted, however, this is being challenged legally.

Q: How does one obtain a copyright?

A: A copyright is immediately granted when a work comes into existence. For example, every letter or email you write is technically copyrighted. Every picture you take is automatically copyrighted. Copyrighted works do not require any statement of copyright. However, such statements may improve a claim if there is a copyright dispute in the future.

Q: Does copyright law make filesharing illegal?

A: No. Filesharing is a technology and like any technology can be used for both legal and illegal purposes. For example, the Creative Commons has developed a set of licenses by which the owner of a copyright can explicitly state what permissions are granted. This means that some works under a Creative Commons license can be distributed even using a filesharing program. On the other hand, using a filesharing program to distribute music that you don't have the rights to distribute is a violation of copyright law.

For more information regarding the Creative Commons, see: www.creativecommons.org [3]

Q: How can I avoid running afoul of copyright law when teaching?

A: The Duke Libraries provide information on this topic [4].

Q: How can I avoid accidentally infringing on a copyright if using filesharing?

A: As was previously mentioned, filesharing itself is legal, however, if you have music on your computer you could run into an copyright problem if you accidentally share that music collection. The OIT Service Desk can assist you in configuring your filesharing applications to avoid such problems.

Q: What does it mean when I receive a complaint about copyright infringement from the IT Security Office?
A: Copyright owners currently scan peer to peer filesharing networks in order to try to find individuals distributing (what they believe to be) their copyrighted material. When they find such material, they locate the IP address of the computer distributing it and send email to the appropriate internet service provider.

Duke occasionally receives such messages, we then attempt to locate the user of that computer at the time the alleged copyright infringement occurred. We then forward the notice on to that individual and wait for a response. When we've received a response, we respond to the copyright owner that "the user" of the computer has been notified. Duke’s policy is to never reveal the name of a user unless legally compelled.

There have been cases (even at Duke) in which a notice of alleged copyright infringement was mistaken. There are several ways that this can occur, including the notice referencing non-copyrighted files. In such cases, the user receiving the notice should contact the IT Security Office to correct the matter.

Source URL: https://security.duke.edu/copyright-faq

Links
[1] https://security.duke.edu/copyright-faq