WIC Spring Luncheon Handout

May 3, 2013

Based on Renee Hobbs’ “Document the Fair-Use Reasoning Process” (http://mediaeducationlab.com/document-fair-use-reasoning-process).

1. What is the purpose of your project?

*Answering this question sets the stage for making fair use determinations. Transformativeness rests, to a large extent, on using copyrighted works for a purpose different from the intent of the original.*

 **I am using this copyrighted image in my graduate thesis.**

2. Who is the target audience?

*This question also helps set the stage. Repurposing a work for a completely different audience than the original helps make the case for Transformativeness.*

**The target audience for this thesis is K-12 and University instructors.**

3. I am using (describe copyrighted material here) because (provide a reason here). *This final stage-setting question requires the student to think critically about the purpose for using the copyrighted material and will, hopefully, ensure there’s a sound reason for doing so.*

 **I am using an image of a World War I poster because**

 **the arrangement of text and image create an urgent and emotional experience and achieve a strong rhetorical purpose.**

4. Does your use of the work “transform” the material taken from the copyrighted

work by using it for a different purpose than that of the original? Explain why your work does not just repeat the intent and value of the original source material.

*Students should describe how they’ve added value or repurposed the copyrighted material. Criticizing, commenting, marking up, deconstructing, making a parody, placing in context, and remixing are just a few examples of transformations.*

**The original work was used to encourage community**

 **members to donate to the Bayside, New York Red Cross.**

 **I’m using the poster as a pedagogical tool for helping students understand visual literacy.**

5. Did you use only the amount you needed to accomplish your purpose? Explain why you used the portion you did.

*Students should review their use of a copyrighted work to make sure the amount used is proportional with the purpose of their use.*

**I needed to use the entire poster to illustrate how its visual composition provides a powerful, crisp example of effective visual rhetoric, but I’ve used a reduced version of the image.**

If a student answers ‘yes’ to the questions about transformativeness and amount, the use is most likely fair. If the student answers ‘no’ to one or both questions, I encourage them to make changes (if appropriate) so their use comes closer to the fair use ideal or consider using a resource not under copyright protection (one in the public domain or with a Creative Commons license[[1]](#endnote-1)). Students are also free to request permission from the original creator if they discover their use is not fair.

When students create work that goes beyond the classroom walls (theses and dissertations, online media projects, etc.), I usually suggest they complete the “Document the Fair-Use Reasoning Process” worksheet and keep it with the final project. For most typical in-class assignments and projects, having students walk through the reasoning process may be sufficient.

There are several caveats to the above information:

* Assume almost everything created after 1923 is copyrighted (whether it has a copyright notice or not). This means **almost all of the content on the Internet is copyrighted**.
* Materials must be acquired through legal means – no illegal downloads or file sharing.
* License terms trump fair use. Use of materials acquired with accompanying licenses (e.g., ITunes, Netflix) is governed by terms of license, not copyright law.
* Cite everything. While copyright law doesn’t require a work to be cited, the scholarly method does.
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