Using Images

Fair Use and Creative Commons
Copyright

- Copyright attaches automatically to any form of expression that is minimally creative.
- Copyright applies to the choice of expression but not to the underlying facts or ideas that are expressed.
- E.g. a newspaper article is protected for the word choice but not the underlying facts.
Copyright

- Most images are considered creative enough for protection as long as some choice is involved in how the picture was taken.
- Courts have said that museum photographs of out-of-copyright paintings are not creative enough if they only represent the underlying image.
Copyright

Copyright is structured to grant the owner a series of exclusive rights that are subject to limitations and exceptions that allow certain uses.
Copyright

The copyright owner’s exclusive rights are to:

- Reproduce the work in copies
- Prepare derivative works (adapt)
- Publicly distribute copies
- Publicly perform (e.g. show a movie)
- Publicly display (e.g. any image on the Internet)
- Publicly perform SR by digital audio transmission
User’s Rights

- Congress has defined a series of uses that are permissible even if the copyright owner objects.
- The broadest and most general user’s right is fair use.
Fair Use

- **Purpose and character of use.**
  - Commercial/non-commercial?
  - Is the use **“transformative”**?

- **Nature of copyrighted work.**
  - How much original expression involved.

- **Amount and substantiality of portion used.**
  - Has defendant taken a substantial portion?
  - Even if not, has defendant taken the “heart” of the work?

- **Effect on the potential market for or value of copyrighted work.**
  - Look to licensing opportunities, etc.
  - Have to consider aggregate effects if others make the same use as defendant
A transformative use is one that either transforms the copyrighted work OR uses the work in a new context or for a different purpose than the owner primarily intended for the work.

Courts have held that search engines are making a transformative use when they copy images as thumbnails for the purpose of providing image search.
Creative Commons

- Creative Commons licenses are permissions granted to the public with some conditions.
- Six CC licenses combine different sets of conditions.
- "CC BY" is shorthand for the Creative Commons Attribution license.
  - The only condition on reuse is that the source is properly credited.
Step 1: Choose Conditions

- Attribution
- ShareAlike
- NonCommercial
- NoDerivatives
Step 2: Receive a License
attr 4.0 international (cc by 4.0)

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share — copy and redistribute the material in any medium or format

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Here are some recently added bits and pieces:

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- From Kentuckyguard
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» 58,276,835 photos (See more)

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- From Northland...

Briefly...

**Attribution** means:
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**Noncommercial** means:
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**No Derivative Works** means:
You let others copy, distribute, display, and perform only verbatim copies of your work, not derivative works based upon it.

**Share Alike** means:
You allow others to distribute derivative works only under a license identical to the license that governs your work.