

# Opening Faculty Doors with Copyright



Sue Kunda; ACRL – OR/WA Fall Conference; October 23, 2015

# Faculty Responsibilities



# COPYRIGHT SCATTERGORIES

For your assigned area of responsibility (**Research**, **Teaching** or **Service**) write down the ways copyright could be implicated.

# Faculty Responsibilities



# SHERPA/RoMEO Search



... opening access to research

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## Search - Publisher copyright policies & self-archiving

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# Journal of Chemical Physics

## Search - Publisher copyright policies & self-archiving

English | [Español](#) | [Magyar](#) | [Nederlands](#) | [Português](#)

One journal found when searched for: **journal of chemical physics**

<b>Journal:</b>	<a href="#">Journal of Chemical Physics</a> (ISSN: 0021-9606, ESSN: 1089-7690)
<b>RoMEO:</b>	This is a <a href="#">RoMEO green</a> journal
<b>Paid OA:</b>	A paid open access option is <b>available</b> for this journal.
<b>Author's Pre-print:</b>	✓ author <b>can</b> archive pre-print (ie pre-refereeing)
<b>Author's Post-print:</b>	✓ author <b>can</b> archive post-print (ie final draft post-refereeing)
<b>Publisher's Version/PDF:</b>	✓ author <b>can</b> archive publisher's version/PDF
<b>General Conditions:</b>	<ul style="list-style-type: none"><li>• Author's post-print on free e-print servers or arXiv</li><li>• Publishers version/PDF may be used on author's personal website, institutional website or institutional repository</li><li>• Must link to publisher version or journal home page</li><li>• Publisher copyright and source must be acknowledged with set statement (see policy)</li><li>• NIH-funded articles are automatically deposited with PubMed Central with open access after 12 months</li></ul>
<b>Mandated OA:</b>	<i>(Awaiting information)</i>
<b>Paid Open Access:</b>	<a href="#">Author Select</a>
<b>Notes:</b>	<ul style="list-style-type: none"><li>• For Medical Physics see AAPM policy</li><li>• This policy does not apply to Physics Today</li><li>• Publisher last contacted on 27/09/2013</li><li>• Publisher last reviewed on 13/04/2015</li></ul>
<b>Copyright:</b>	<a href="#">Policy</a>
<b>Updated:</b>	13-Apr-2015 - <a href="#">Suggest an update for this record</a>
<b>Link to this page:</b>	<a href="http://www.sherpa.ac.uk/romeo/issn/0021-9606/">http://www.sherpa.ac.uk/romeo/issn/0021-9606/</a>
<b>Published by:</b>	<a href="#">American Institute of Physics (AIP)</a> - <a href="#">Green Policies in RoMEO</a>

# Pre-Print Information

**Journal:** [Journal of Chemical Physics](#) (ISSN: 0021-9606, ESSN: 1089-7690)

**RoMEO:** This is a RoMEO green journal

**Paid OA:** A paid open access option is **available** for this journal.

**Author's Pre-print:** ✓ author **can** archive pre-print (ie pre-refereeing) 

**Author's Post-print:** ✓ author **can** archive post-print (ie final draft post-refereeing)

**Publisher's Version/PDF:** ✓ author **can** archive publisher's version/PDF

**General Conditions:**

- Author's post-print on free e-print servers or arXiv
- Publishers version/PDF may be used on author's personal website, institutional website or institutional repository
- Must link to publisher version or journal home page
- Publisher copyright and source must be acknowledged with set statement (see policy)
- NIH-funded articles are automatically deposited with PubMed Central with open access after 12 months

# Post-Print Information

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<b>General Conditions:</b>	<ul style="list-style-type: none"><li>• Author's post-print on free e-print servers or arXiv</li><li>• Publishers version/PDF may be used on author's personal website, institutional website or institutional repository</li><li>• Must link to publisher version or journal home page</li><li>• Publisher copyright and source must be acknowledged with set statement (see policy)</li><li>• NIH-funded articles are automatically deposited with PubMed Central with open access after 12 months</li></ul>

aka "Author's Accepted Manuscript"

# Publisher's Version Information

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<b>Publisher's Version/PDF:</b>	✓ author <b>can</b> archive publisher's version/PDF  <span data-bbox="1354 836 1932 950">aka "Version of Record"</span>
<b>General Conditions:</b>	<ul style="list-style-type: none"><li>• Author's post-print on free e-print servers or arXiv</li><li>• Publishers version/PDF may be used on author's personal website, institutional website or institutional repository</li><li>• Must link to publisher version or journal home page</li><li>• Publisher copyright and source must be acknowledged with set statement (see policy)</li><li>• NIH-funded articles are automatically deposited with PubMed Central with open access after 12 months</li></ul>

# Notes

<b>Mandated OA:</b>	(Awaiting information)
<b>Paid Open Access:</b>	<a href="#">Author Select</a>
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<b>Published by:</b>	<a href="#">American Institute of Physics (AIP)</a> - <a href="#">Green Policies in RoMEO</a>

This summary is for the journal's *default* policies, and changes or exceptions can often be negotiated by authors.

*All information is correct to the best of our knowledge but should not be relied upon for legal advice.*

# Link to Copyright Policy

<b>Mandated OA:</b>	(Awaiting information)
<b>Paid Open Access:</b>	<a href="#">Author Select</a>
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# Copyright Notice/Statement

## Format for copyright notices

After publication by AIP, the author is required to post the following copyright notice:

*Copyright (year) American Institute of Physics. This article may be downloaded for personal use only. Any other use requires prior permission of the author and the American Institute of Physics.*

along with the following message:

*The following article appeared in (citation of published article) and may be found at (URL/link for published article abstract).*

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# SELF-ARCHIVING: YES OR NO

Determine the following for your assigned journal:

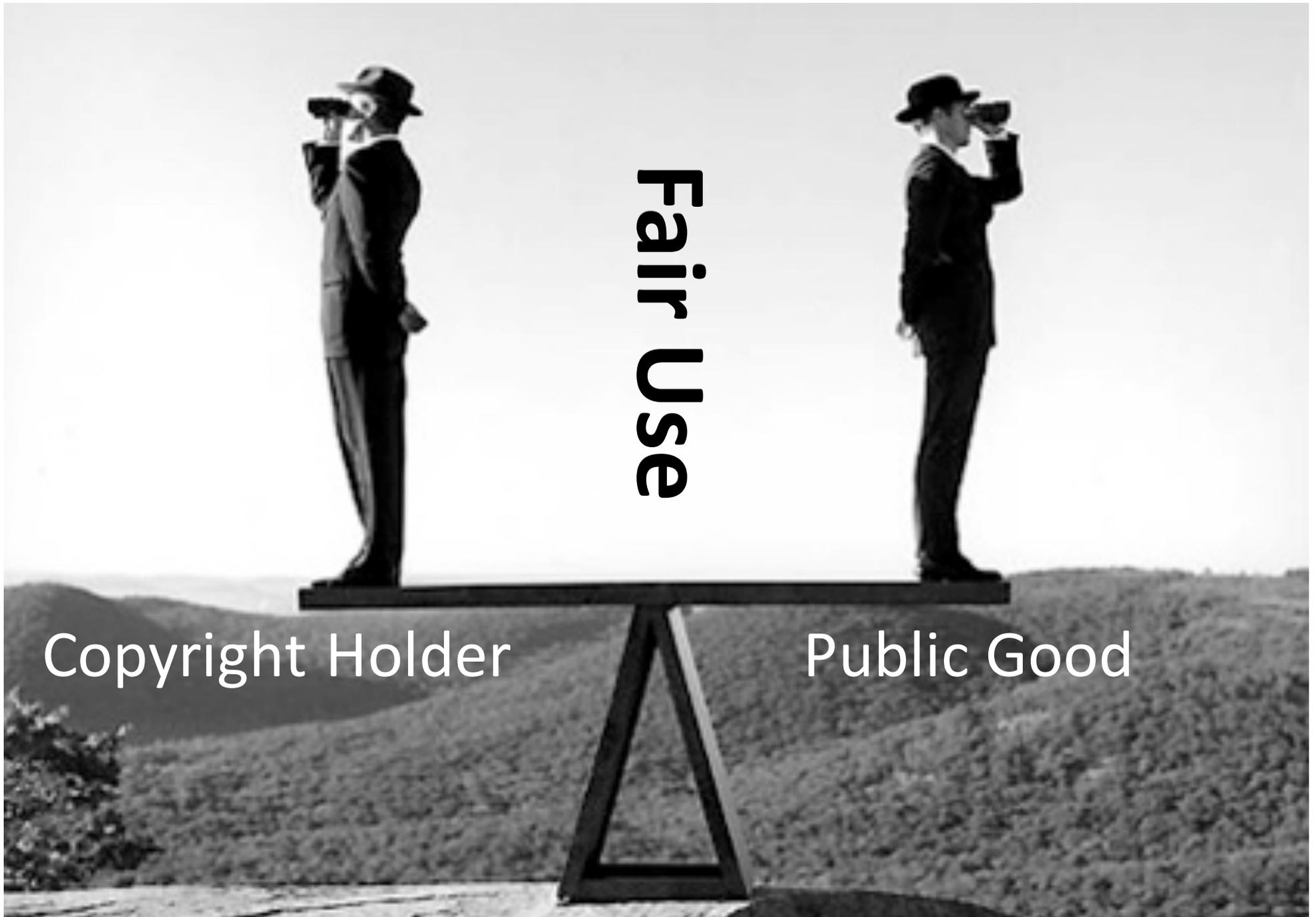
- Is self-archiving supported?
- If self-archiving is supported, which version can go into an institutional repository?
- Is there an embargo period?
- If yes, how long is the embargo period?

# Faculty Responsibilities



*“The Congress shall have the power  
... To Promote the  
Progress of Science and  
the useful Arts by securing for  
limited times to Authors and  
Inventors the exclusive right to their  
respective writings and discoveries.”*

U.S. Constitution – Article 1 Section 8

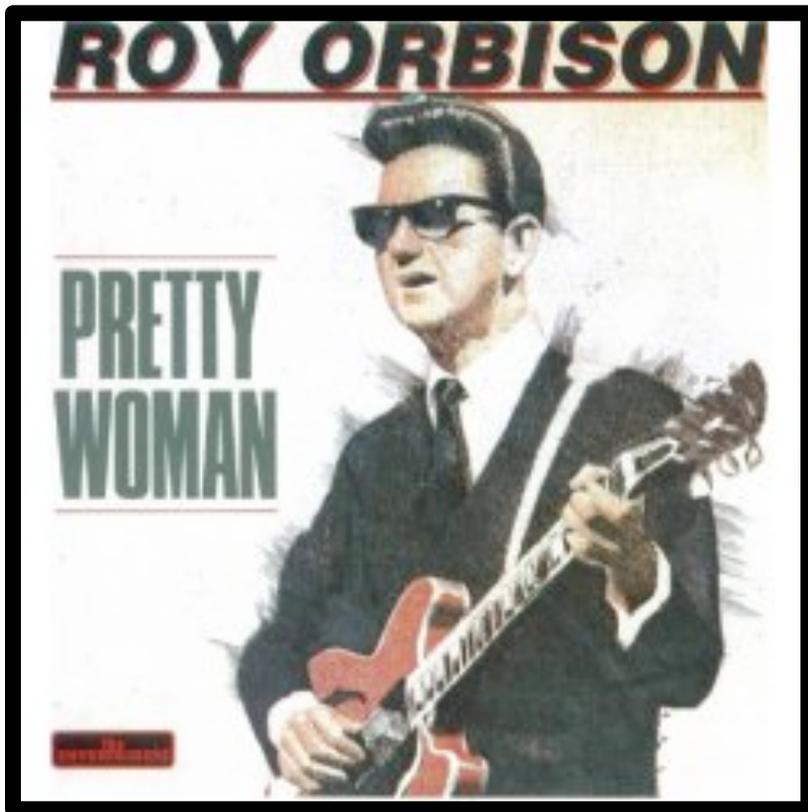


Fair Use

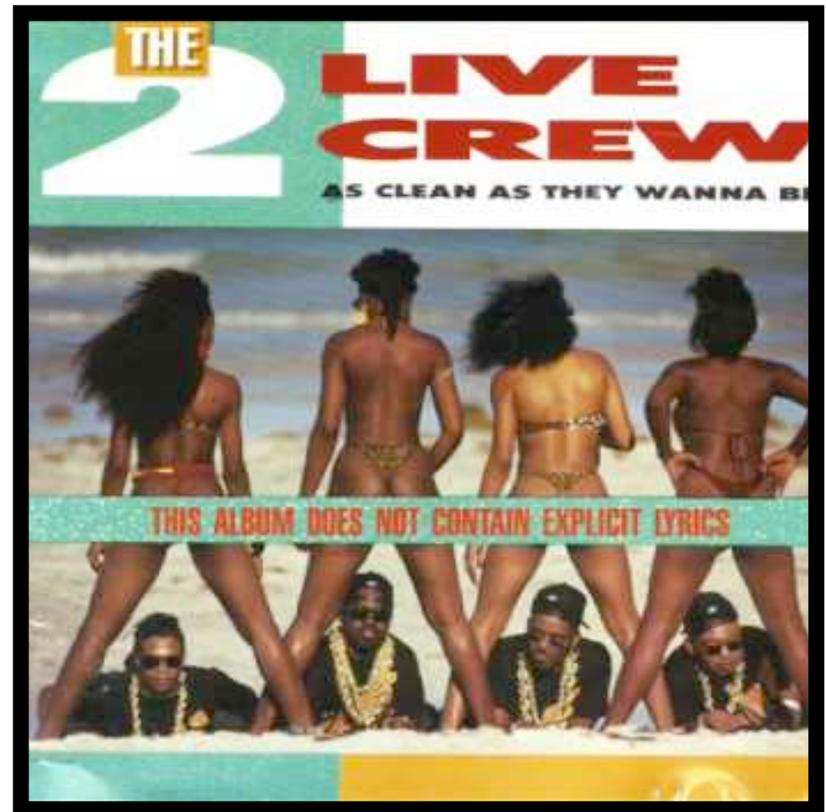
Copyright Holder

Public Good

# *Campbell v. Acuff-Rose Music, Inc.*



Oh, Pretty Woman Single Cover (Source: Wikimedia Commons)



As Clean as They Wanna Be Album Cover (Source: [YouTube](#))

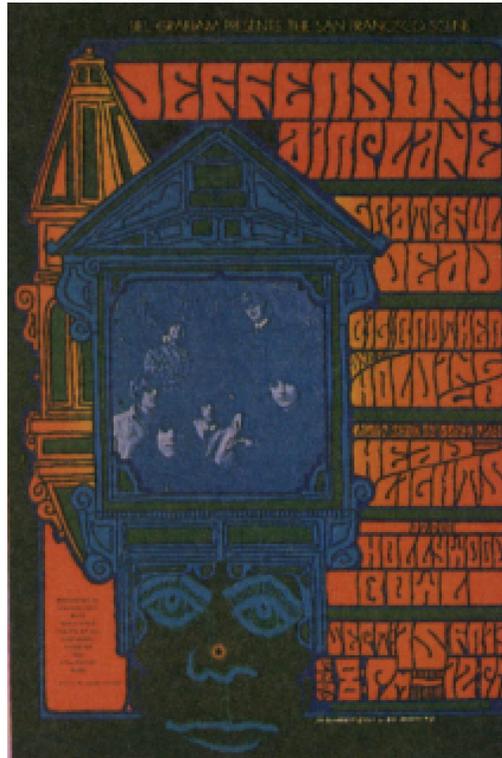
“...the goal of copyright, to promote science and the arts, is generally furthered by the creation of transformative works.”

*Campbell v. Acuff-Rose Music, Inc.* (1994)

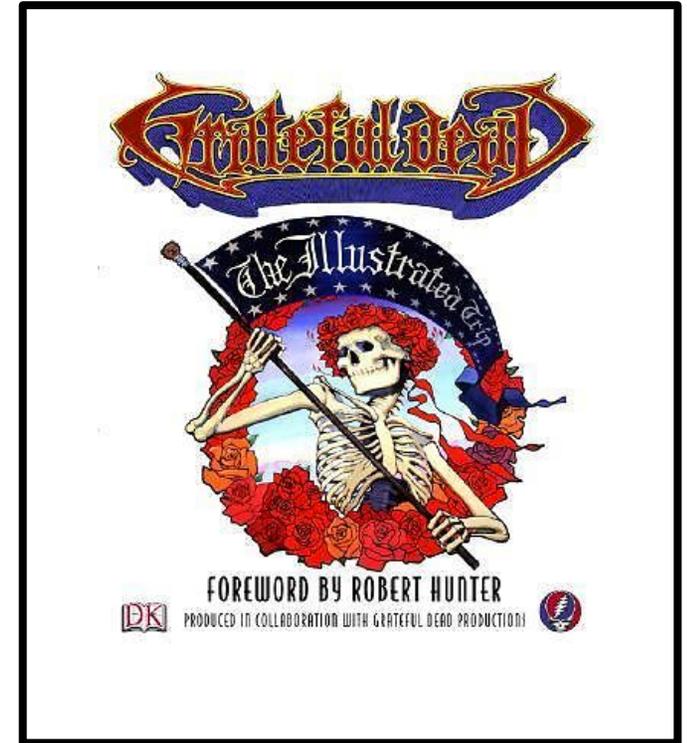
# *Bill Graham Archives v. Dorling Kindersley, Ltd.*



Bill Graham (Source: Sarfati)



[Jefferson Airplane Poster](Source: Bill Graham Archives)



Grateful Dead: The Illustrated Trip (Source: Amazon)

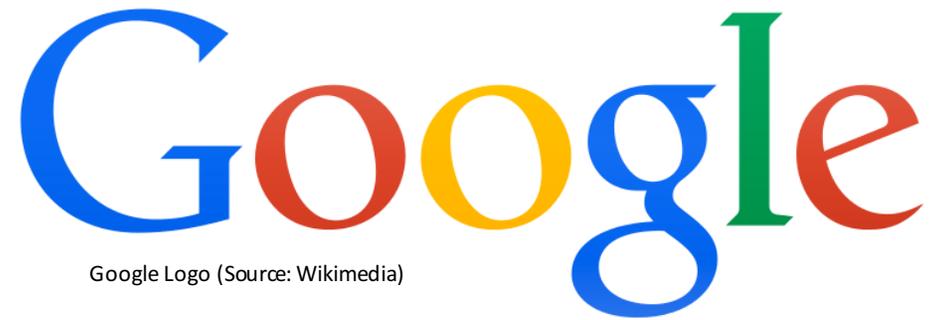
*"The images placed in chronological order on a timeline is transformatively different from the mere expressive use of images on concert posters."*

*Bill Graham Archives v. Dorling Kindersley, Ltd. (2006)*

# *Perfect 10, Inc. v. Google Inc.*



Perfect 10 Magazine Cover (Source: philsp.com)



Google Logo (Source: Wikimedia)



Amazon Logo (Source: Wikimedia)

*“...even making an exact copy of a work may be transformative so long as the copy serves a different function than the original work .”*

*Perfect 10, Inc. v. Google Inc. (2007)*

# Fair Use Considerations

Weigh these options together to decide if you have a legitimate fair use claim.

## Amount & Substance

Did I use more than was necessary?  
Did I take the heart of the thing?



## Purpose & Character

Is the new work transformative because it adds new expression to the original—like creating a parody—or because it uses the original in a new way or for a new purpose, like for teaching.

## Nature Of The Original

Is it highly creative or just a bunch of facts?

## Effect On Market

Could my use affect the market of the original or take the place of the original?

You need permission from the owner.

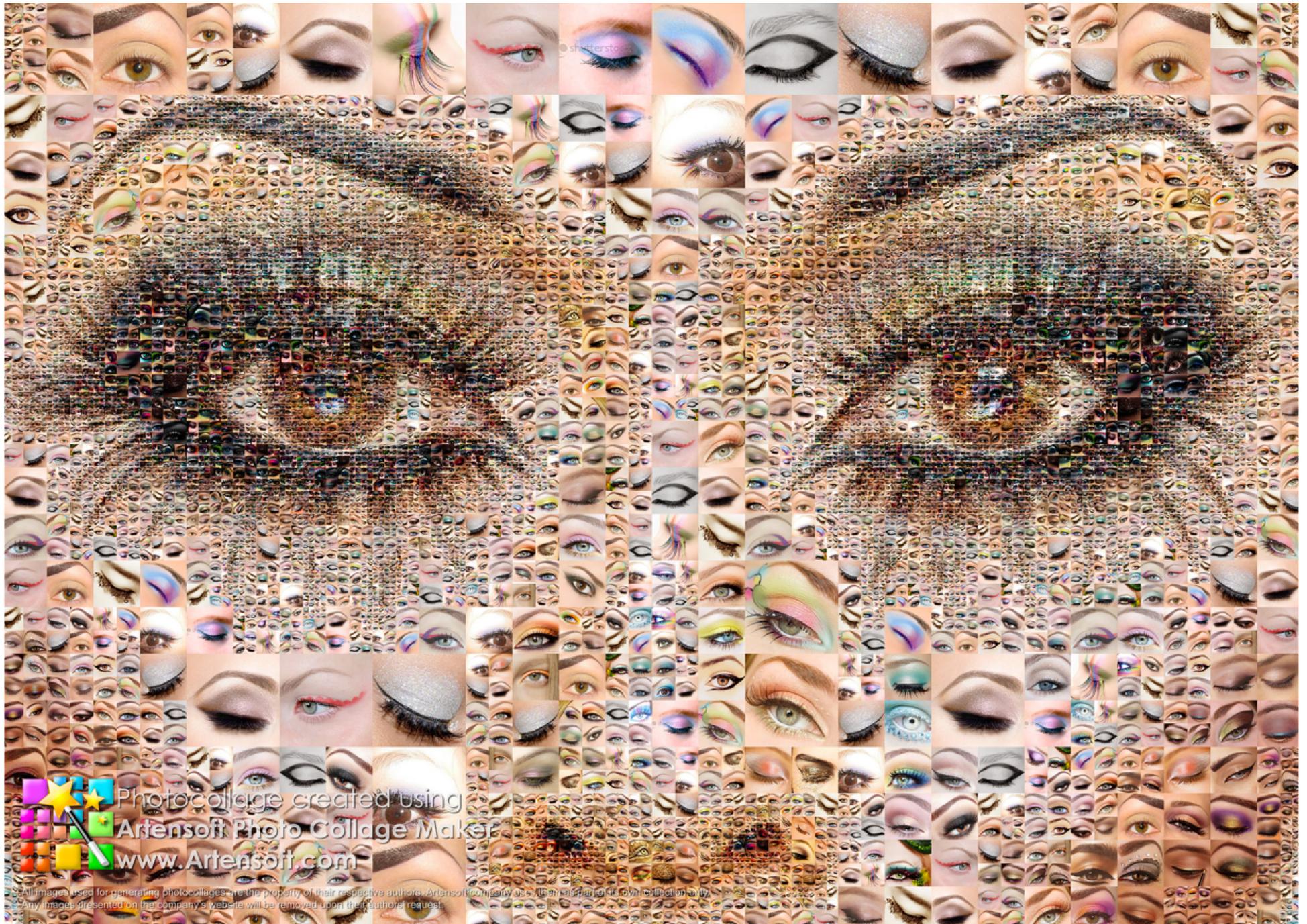


Is this fair use?



Use it





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Any images presented on the company's website will be removed upon their authors' request.

[Face] (Source: Artensoft)



Figure 1: "Help Her for the Duration of the War"

Original Image



Figure 2: "Help Her for the Duration of the War" with inserted arrows

Image with Student's Markup

**Movement:** The visual's sequential presentation of its components

- Uses top-to-bottom and left-to-right motions of reading required by English
- As illustrated by the inserted arrows, the large medical Red Cross navigates viewer's eyes from prominent "Help Her" to nurse's eyes
- Following the direction of the soldier's eyes takes the viewer to the nurse's eyes
- Nurse's headdress leads the viewer from nurse's eyes to her shoulder and down her arm, which reaches out to viewer as well as continues the visual pathway to the word "Join."

...copyright should be  
treated in the same way as other  
risks of legal liability, as a subject  
of risk management.

(Smith, 2012)

# FAIR USE OR NOT FAIR USE?

Determine the following for each scenario:

- Do you think this is a fair use?
- How risky is the use?  
HIGH or MEDIUM or LOW (write on board)
- Where on the continuum do you stand?  
GROUP MEMBER STANDS ON CONTINUUM

SCENARIO 1: A professor copies one article from a periodical for distribution to the class.

SCENARIO 2: A professor has posted his class notes on a web page available to the public. He wants to scan an article from a copyrighted journal and add it to his web page.

SCENARIO 3: A teacher wishes to show a copyrighted motion picture to her class for instructional purposes.

Professor Lee is teaching an online photography course and has an image from the Associated Press of tourists in Red Square wearing face masks to protect themselves from the smog during the the 2010 Russian wildfires. Professor Lee felt that this photograph was a particularly good example of image composition and depth of field.

He decided to use the photo in his online lecture notes for the class, which he makes available on his personal website without access restrictions. In the text surrounding the image, Professor Lee clearly stated his purpose in displaying the image, explaining in detail how the image exemplifies the photographic concepts he is discussing. Is this fair use?

Professor Banerjee is teaching a face-to-face management course that has an online component. His lectures are captured on video and then posted in Sakai for students to review. The videos also capture Professor Banerjee's PowerPoint slides.

At the end of a lecture on management styles, he included a Dilbert cartoon strip as the final slide. The strip depicts Dilbert wearing Mickey Mouse ears for Halloween and stating that he is dressed up as "someone's management style." Professor Banerjee intended the cartoon to be a bit of comic relief related to the topic. Is this fair use?

Professor Hallberg-Smith teaches a hybrid course in econometrics. Instead of using an expensive textbook, she posts course content in Sakai that she herself wrote. During class sessions students work in groups to solve and review problem sets, and she takes questions about the readings and the problems.

Hallberg-Smith has not had time to create her own problem sets for the course; instead she uses problems from the textbook *Introduction to Econometrics* written by James H. Stock. Aware of the high cost of this book, Professor Hallberg-Smith does not want students to have to buy it just for the problem sets, so she scans the problems to PDF and posts them in Sakai for students to download and use. Is this fair use?

Professor Beretsky is teaching an online course about copyright. He wants to illustrate the provision of copyright law that pertains to compulsory cover licenses of music by demonstrating how cover versions may differ noticeably from original recordings. He extracted a 30 second clip from the recording of "Little Wing" by Jimi Hendrix and then about 15 seconds of the same song by Santana featuring Joe Cocker.

He inserted the sound clips into his online lecture notes for the class, which he makes available on his personal website without access restrictions. In the text surrounding each sound clip, Professor Beretsky clearly states his purpose for including the song, explaining in detail the musical differences between the two pieces and what the significance of this is in relation to compulsory licensing. It is possible for students to download the clips. Is this fair use?

Professor Mercer is preparing to teach a face-to-face nursing class. She plans to use Sakai to post the course syllabus and grades and to allow students to hand in assignments. As she's working on her syllabus, she receives in the mail an examination copy of Mosby's Nursing Video Skills - Student Version DVD, 4th Edition (Elsevier, 2013). She reads the description on the back of the DVD: "With high-definition videos demonstrating how to perform nursing procedures, Mosby's Nursing Video Skills provides up-to-date, step-by-step instructions for the most important nursing skills. For each skill, NCLEX exam-style review questions help you assess your knowledge."

Noting that five of the procedures she will be covering in class are included on the DVD, she asks the library to copy these segments and upload them to the university's streaming server so that she can embed them in Sakai for students to view. Since there are a total of 130 procedures on the DVD, she's using less than 5% of the content. Is this fair use?

Professor Kassabian is teaching an online course about global health. For a segment on pandemics, he would like the class to read a chapter from *Spillover: Animal Infections and the Next Human Pandemic* by David Quammen (Norton, 2012). He photocopied the chapter from his copy of the book and asked the library to scan the copy to PDF and place it on e-reserve.

The scanned copy of the chapter includes the book's title and copyright information of the book, and the course syllabus provides a complete citation for the chapter. Is this fair use?

Professor Wang is teaching an online Introduction to Film Studies course. The films studied in the course are: Casablanca (1942, Michael Curtiz), Touch of Evil (1958, Orson Welles), Breathless (1960, Jean-Luc Godard), The Virgin Suicides (1999, Sofia Coppola), The Bicycle Thieves (1948, Vittorio De Sica), and Walk Hard (2007, Jake Kasdan).

So that students can view the assigned movies, Professor Wang asks the library to upload their DVD copies of the films to the university's streaming server. Only students registered for the course will be able to access the films, and students will not be able to download or copy the films. Is this fair use?

# CITATIONS

Tesh. N. Writings. *[Open Doors]*. [Image]. (n.d.). Retrieved October 20, 2015 from <http://teshnwritings.com/open-doors/>.

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*Balanced seesaw*. [Photograph] (n.d.). Retrieved January 11, 2014 from <http://thecafephenomenon.wordpress.com/page/10/>

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*[Jefferson Airplane Poster]*. [Image: Poster]. (n.d.) in Jackson, B., McNally, D., Peters, S., & Wills, C. (2003). *Grateful Dead: The Illustrated Trip* (p. 76). New York, NY: Dorling Kindersley.

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Internet Keep Safe Coalition (iKeepSafe). [Image]. (2014). Retrieved October 20, 2015 <http://www.ikeepSAFE.org/wp-content/uploads/2014/06/INFOGRAPHIC-First-Amendment-Copyright-Fair-Use-for-Print-v.-10.1.pdf>

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Pajak, Z. E. (2012). Picture this, imagine that : the literary and pedagogic force of ekphrastic principles (Master's thesis). 10 September. *Page 67*. Retrieved December 13, 2012, from <http://hdl.handle.net/1957/34331>.

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