

@WORK



Copyrights and Wrongs

By Donna J. Abernathy

Intellectual-property issues have become one of training's most controversial areas, thanks to the influence of the Internet. Whether you're facilitating online learning, researching training stats, or just plain curious, it pays to know what you're getting into when using electronic content—and how to stay out of hot water. Here are some tips for navigating digital copyright issues. For legal advice on this topic, be sure to consult a knowledgeable copyright attorney.

Photo by Eyewire.com

Tip 1: Remember, new tools, same rules. Copyrights protect the expression of an idea, a concept, or a thought in tangible form—such as a book or video—not the idea, concept, or thought itself.

According to Canada-based Node Learning Technologies Network, “Without a doubt, the power of technology to make exact duplications, easy manipulations, and rapid transmissions of copyrightable material has brought ownership issues to a crisis.” A significant difference

Send your Internet news, views, tips, and tools to atwork@astd.org.

Sizzlin' Sites

Here are some Websites that can help you steer clear of copy wrongs.

- Australian Copyright Counsel
◀ copyright.org.au
- Authors' Licensing and Collecting Society
◀ www.alcs.co.uk
- Copyright Clearance Center
◀ www.copyright.com
- European Copyright User Platform
◀ www.eblida.org/ecup
- Library of Congress U.S. Copyright Office
◀ lcweb.loc.gov/copyright



UpData

Original works created on or after **January 1, 1978**, are protected by copyright law for the author's life plus 70 years after his or her death.

between life before and after the Net is that instead of what NLTN calls the "intangible traces" of traditional learning, there are now electronic "artifacts" that can be owned, reproduced, and marketed. Regardless of the medium, you still need permission to use copyrighted material.

◀ [The Rights Stuff; thenode.org](http://TheRightsStuff.thenode.org)

Tip 2: Need permission? Just ask. If you're tempted to borrow online content now and beg forgiveness later, *fugged-aboutit*. Real people and organizations own copyrights and are fussy about preserving the value of their hard work. The only exception to using materials without permission falls under fair use doctrine, addressed in tip 3.

You should contact copyright owners directly for permission to use their materials and keep detailed communication records. If there's no copyright state-

ment, you can determine ownership by conducting a Web search, emailing the Website contacts, or requesting a records search from the U.S. Copyright Office.

Tip 3: Understand what *fair use* does and doesn't cover (and it often doesn't). Limited exceptions to the permission rule are possible under the fair use doctrine, which includes reproducing portions of original works for

- criticism and comment
- news reporting
- teaching and scholarship
- research.

Further caveats to using copyrighted materials include whether the use will generate profit or depreciate the value of the copyrighted work. It's a thorny area often reserved for the courts. To help guard your own creations from infringement, see tip 4.

Tip 4: Protect your own. Copyright protection begins when an original work is presented in a fixed, tangible form—that is, on a sheet of music, in a book, on film, or in other media. It's automatic, but many people register copyrights formally to help protect against infringement claims. Using copyright notices—such as © 2001 Jane Doe—helps reinforce ownership.

You may want to consider digital rights management technology—such as encryption and digital watermarking—to safeguard your copyrights. And by all means, monitor new developments from the U.S. government, a party keenly interested in all things digital.

Tip 5: Keep an eye on new legislation. U.S. Senators Orrin Hatch and Patrick Leahy have introduced a bill—the Technology Education and Copyright

Harmonization Act of 2001 (S.487.IS)—that would free educators to use copyrighted materials in distance learning programs. Current copyright law enables schools to avoid paying royalties for copyrighted materials used in live instruction, but the same use in e-learning courses requires a license. The bill doesn't address workplace training, but many organizations partner with colleges for staff devel-

opment and would benefit from its enactment, pending at this writing.

Other Internet-related copyright issues include unauthorized Website framing (displaying another site's text while surrounding it with your border or ads) and posting previously published material without express permission to display it electronically.

loc.gov/copyright/legislation;
www.patents.com/weblaw.sht

The Rights Stuff

Colleges are making headway when it comes to developing intellectual property policies that protect and reward e-learning copyrights.

New Jersey-based Stevens Institute of Technology has approved a new Web-course ownership policy that assigns copyright ownership of e-courses to the school and use rights and compensation to staff that develop such courses. According to Robert Ubell, director of Web-based learning at Stevens, "The new policy is both academically fair and economically just. Faculty receive reasonable compensation for their intellectual contributions—not only from online development and instruction, but also from projected income streams that may flow from licensing and other revenue sources."

He adds in a spring 2001 *Educause Quarterly* article that institutions that have invested heavily in e-learning may find relief in such policies. "Their rights and potential income are also protected," he says.

[stevens-tech.edu;](http://stevens-tech.edu)
www.webcampus.stevens.edu

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