OMG I Agreed to That?! Copyright, Licensing, and Libraries

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Two Parts

- Part 1 - rights under copyright law to use materials in the library’s collection
  - and avoiding signing away rights in licenses

- Part 2 - rights to use materials available on the web and how Creative Commons can help
Part 1

> Copyright law – rights to use materials in the library’s collection
Copyright law

Section 108 – exceptions for libraries and archives
Section 107 – Fair Use
Section 110 – exceptions for public displays & performances
Section 108 provides rights for libraries, EXCEPT

Section 108 (f)(4)

(f) Nothing in this section —

(4) in any way affects the right of fair use as provided by section 107, or any contractual obligations assumed at any time by the library or archives when it obtained a copy or phonorecord of a work in its collections.
Where does licensing fit in?

Copyright law vs. contract law

Fair Use, 108, 110 = copyright law

Licenses = contract law

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A license is one type of contract

- E.g., types of contracts can include sale of goods, sale of services, transfer of intangible rights, license to use property, etc.

A license is an agreement by an owner to grant permission to another to use the owner’s property, with or without restriction, in exchange for consideration (usually $)
License Terms & Copyright Section 110

- Section 110
  - Public performances in the classroom 110(1)
  - Use in online class sessions 110(2)
  - Nondramatic public performances 110(4)
License Terms &
Copyright Section 110

License terms that will trump your 110 rights

- No public performances, including classroom
- No duplication for online classes
- No public performance of music
License Terms & Copyright Section 108

- Section 108 rights
- Copies for users
- Replacement copies for the library
- Interlibrary loan
License Terms & Copyright Section 108

- License terms that will trump your 108 rights
- Restrictions on users' copying
- Prohibition against ILL
License Terms & Copyright Section 107

Section 107 Fair Use

- Copying and other educational uses
- Four factors weighed:
  - Purpose and character of the use
  - Nature of the work
  - Amount & substantiality
  - Effect on the market
License Terms & Copyright Section 107

- License terms that will trump your 107 rights
  - Prohibition against reserves
  - Prohibition against duplication for classroom use
  - Prohibition against student use of materials
Part 2

Rights to use materials available on the web and how Creative Commons can help
Copyright Law Section 108

- No section 108 exception for libraries and archives, because freely-available web materials are not part of your library’s collection

- So you cannot rely on section 108 for copying, but...
  - May be able to use under 107 Fair Use
  - Can share links
Copyright Law Section 110

- Unlicensed video on the web – show in a classroom?
  - Yes, if meets requirements of 110(1)

- Unlicensed video on the web – show in a public library story hour?
  - Probably not without getting permission
Fair Use of unlicensed images on the web?

- Students copying images for school projects = fair use
- Reproducing images on personal websites might not be fair use and could require asking for permission
- Creative Commons offers “pre-licensed” materials
Creative Commons

Creative Commons CC Search web app
http://search.creativecommons.org

Flickr’s CC search
http://www.flickr.com/creativecommons/by-2.0/
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Squirrels on a Snowy Day at the University of Michigan (Ann Arbor)
Squirrels romping through the snow in the Law Quad at University of Michigan on this lovely snowy day.

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Questions?

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