

Copyright Roadmap

It can be easy to get overwhelmed by the complexity of copyright regulation, but here are some basic steps to consider as you analyze copyright issues:

1. Is the material “in copyright”?

The Copyright Act provides that copyright subsists in every original literary, dramatic, musical and artistic work, in most cases for the life of the author plus 50 years. Copyright also subsists in certain “non-traditional” subject matter, such as performer’s performances, sound recordings, and broadcast signals, where the clock starts running from the first performance. So, a first step is to consider whether copyright applies at all. Much of the material that you will use will fall within Canadian copyright protection.

2. Does permission exist in the form of a license?

The University has licensed a huge amount of material, and it also (until December 31, 2013, subject to negotiations regarding renewal) has a broad license from Access Copyright, the collective that administers copyright on behalf of a very large number of authors. If the material is licensed, and the use that you propose is permitted by the license (two separate questions) then you will be able to use the material without further permission or payment. Here is where you can go to check whether the material is licensed: <http://www.accesscopyright.ca/look-up-tool>.

3. Whether or not it is licensed, is the proposed use a “substantial use”?

Here is where it can get complicated. Copyright only applies to the reproduction of the work “or a substantial part thereof” (s. 3 of the Copyright Act). Copying that is not substantial does not require permission or further payment. But, what is substantial is a matter of degree and context. For more guidance on how to ascertain if the proposed reproduction is substantial, please refer to the Fair Dealing Guidelines: <http://www.provost.utoronto.ca/Assets/Provost+Digital+Assets/26.pdf>.

4. Fair Dealing

In the educational context, there is considerable scope for copying, without the necessity of seeking permission from the rights holder, where the copying would be considered “fair dealing” within the meaning of the Copyright Act. To fall within this exception the dealing must be for an allowable purpose: research, private study, education, parody, satire, criticism or news reporting. And the dealing itself must be “fair” having regard to: the purpose of the dealing; the character of the dealing; the amount of the dealing; the nature of the work; available alternatives to the dealing; the effect of the dealing on the work. This is obviously a fact-specific, nuanced assessment. But see the Fair Dealing Guidelines, and section 4 in particular, for more information: <http://www.provost.utoronto.ca/Assets/Provost+Digital+Assets/26.pdf>.

5. Coursepacks

Many faculty members have chosen to reduce the use of coursepacks, and upload material to the secure environment of Blackboard for course use. Others, for pedagogical reasons, prefer to continue with paper coursepacks. At present, the Access Copyright License provides good ability to upload material without additional charges. And even if the License is not renewed the Library possesses a large number of licenses that permit such uploading. But if you choose to use a coursepack, please ensure that you follow a method that complies with copyright. For any material in the Access Copyright repertoire you can use one of the local licensed copy shops identified here: <http://onesearch.library.utoronto.ca/sites/default/files/copyright/Authorized%20Copyshops%20for%20U%20of%20T%20Aug%20%2012-13.pdf>. Or you may choose to use the UTSC copy shop, which is licensed by Access Copyright. Or you may choose to use the U of T Bookstore, at the St. George Campus, which arranges production through a licensed entity. Obviously, it is of benefit to the University if you use either the Bookstore or the UTSC copy shop, but provided that you respect copyright, you can use the method that best suits your needs.

6. What does the future hold?

It should not be any surprise that in the information age there is greater attention than ever before being paid to issues like creators' rights, copyright, open access, and related matters. This attention gets focussed in different ways, such as legislation, litigation, technological development, and scholarly norms and expectations. You, as both a content creator and a content user, and, especially, as a faculty member in an institution devoted to teaching and research, have a vital role to play in these developments, but that role will require more attention and care than may have occurred previously, and greater use of our excellent resources, both within the Library and elsewhere.