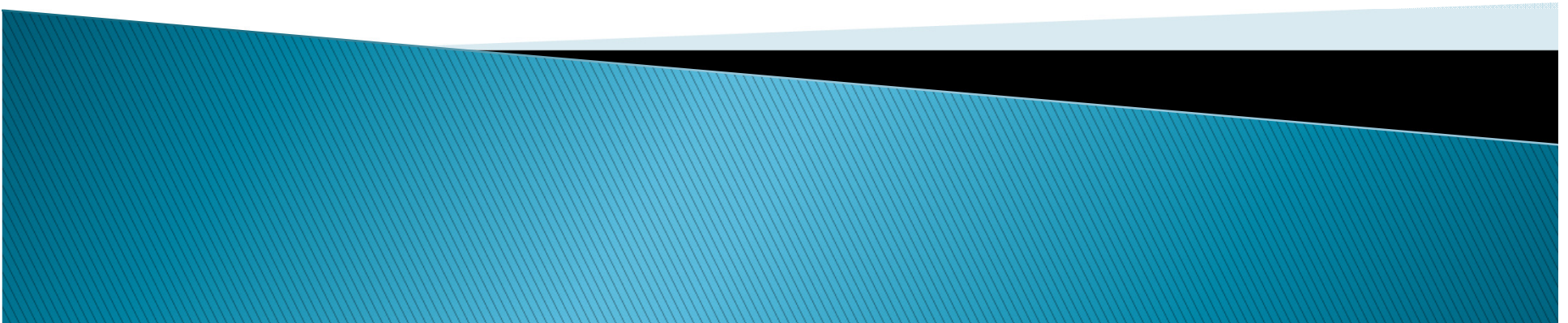


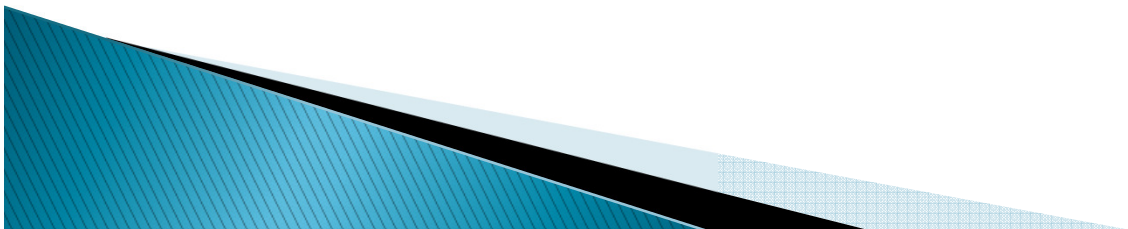
Copyright Overview: Issues for Libraries and in Education

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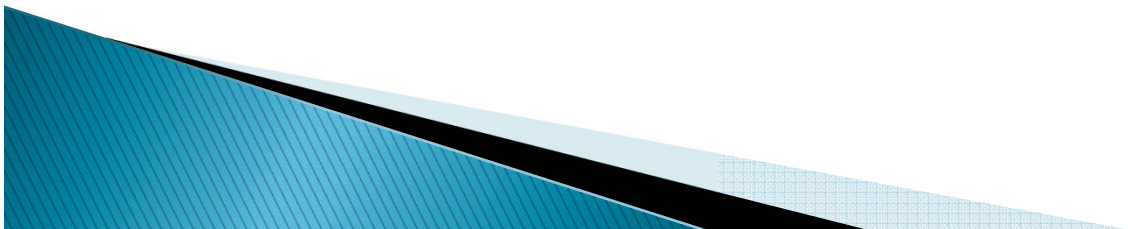
Our agenda...

- Definition of Copyright
 - Digital Millennium Copyright Act
 - Bono Copyright Extension Act
- Doctrine of First Sale
- Fair Use
- Educational performance of motion media
- Your questions



What is Copyright?

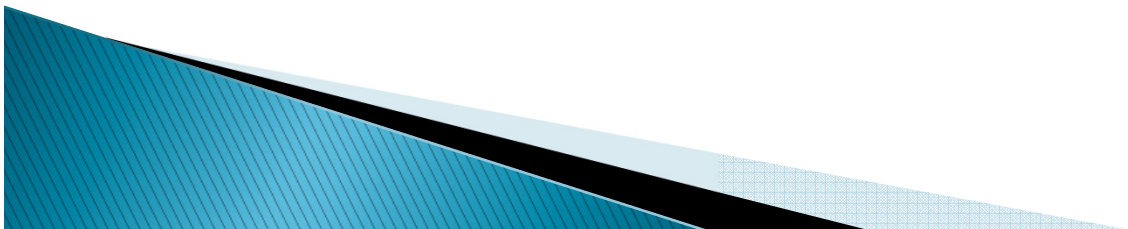
- ▶ Title XVII of the United States Code
 - Text available at <http://www.copyright.gov/title17/>
- ▶ Rights granted by Congress in the Constitution to authors, artists, inventors
- ▶ Intended to “promote the progress of science and the useful arts”
- ▶ In place for a “limited time”



What is Copyrightable?

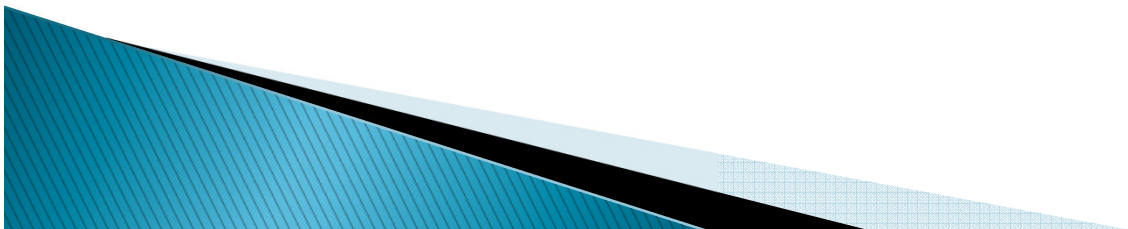
- Original works of authorship fixed in any tangible medium of expression, now known or that will be developed in the future. Works of authorship include:
 - written works (fiction, non-fiction, lesson plans, this powerpoint);
 - musical works, including any accompanying words;
 - dramatic works, including any accompanying music;
 - pantomimes and choreographic works;
 - pictorial, graphic, and sculptural works;
 - motion pictures and other audiovisual works;
 - sound recordings; and
 - architectural works.

Facts are not copyrightable



Requirements for Copyright Protection

- ▶ Work must be original and in a fixed medium
- ▶ Does not require the copyright symbol ©
- ▶ Does not require registration with the U.S. Copyright office, but registration has its benefits
 - Public record of a copyright claim
 - Must be registered to file an infringement lawsuit
 - Must be registered prior to infringement to recover statutory damages and attorney's fees. Otherwise, you can recover only actual damages.



Digital Millennium Copyright Act

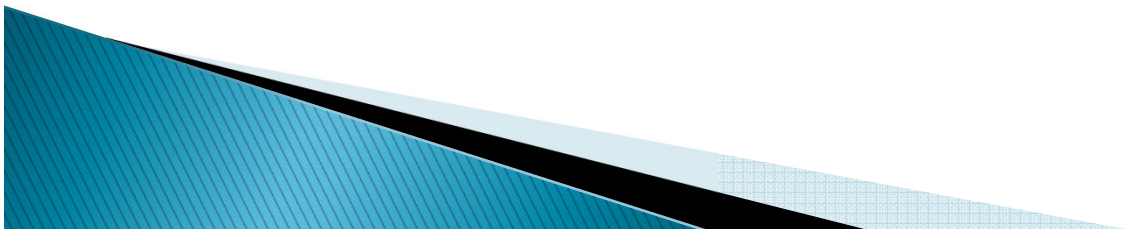
- Passed in 1998
- Updated 1976 copyright law to take into account new technologies
 1. Prohibits circumvention of technological protection measures (becomes an issue if you want to copy a digital work like a CD or DVD).
 2. Prohibits alteration of information imbedded in digital works (watermarks, etc.)
 3. Limits Internet service providers' (ISP) liability (colleges, universities, and many school districts are ISPs).
 4. For more information see:

<http://www.copyright.gov/legislation/dmca.pdf>



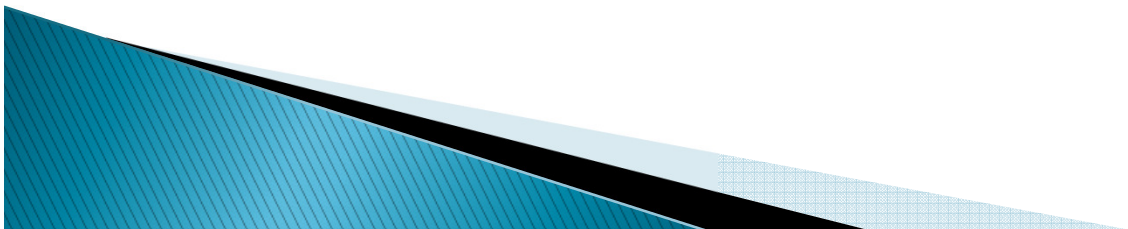
Bono Copyright Extension Act

- ▶ Passed with DMCA
- ▶ Retroactively extended copyright from life of holder + 50 years to 70 years
- ▶ Works about to enter the public domain (out of copyright and thus can be used in any manner) remain under copyright protection for an additional 20 years.
 - When Works Pass into the Public Domain
<http://www.copyright.cornell.edu/resources/publicdomain.cfm>



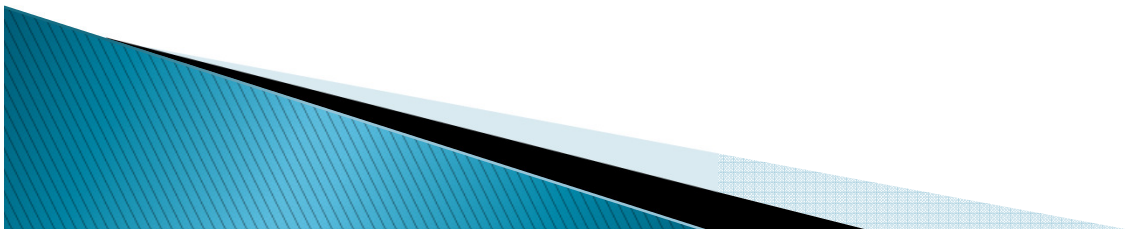
As a Copyright Holder, what can I do with a Copyrighted Work?

- ▶ If you are the author, copyright law gives you the exclusive right to:
 - Reproduce, distribute, perform, display, or transmit digitally your work, as well as the right to prepare works based on the original.
 - You may also permit others to use your work in any of these ways, without giving up these copyrights.



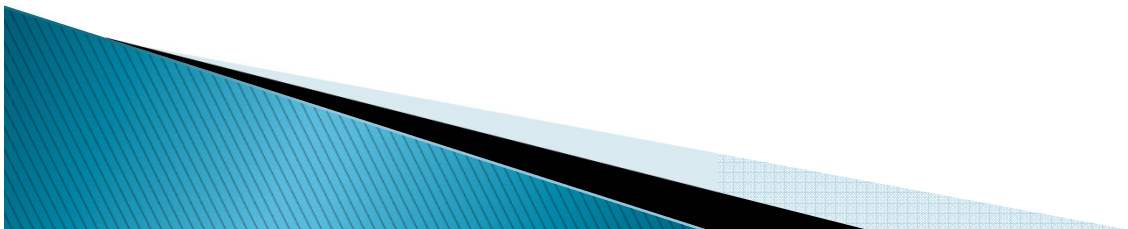
If you are not the Copyright holder?

- ▶ Copyright law gives you a number of ways to use a copyrighted work.
 - Doctrine of First Sale
 - Fair use
 - Classroom use of audiovisual materials



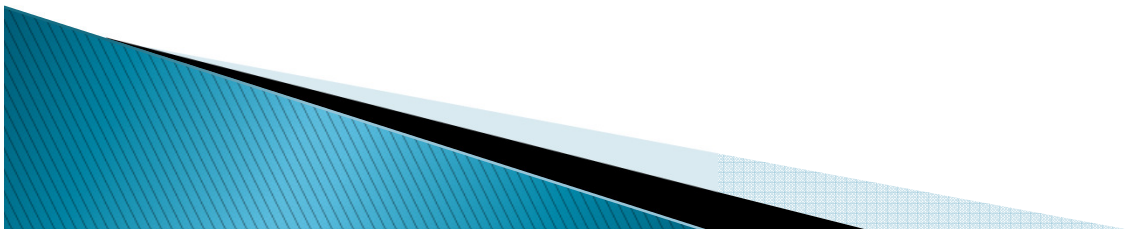
Doctrine of First Sale—Section 109

- Permits you, as the holder or owner of a copyrighted work, to sell, lend, rent, or dispose of, the physical manifestation of the work without permission.
 - This is how libraries and video stores operate.
- You do not own the copyright to the work, just the physical object.
- Does not apply to computer programs.
- Becoming more of an issue as we license access to digital versions of content we used to purchase in physical formats.



Fair Use—section 107

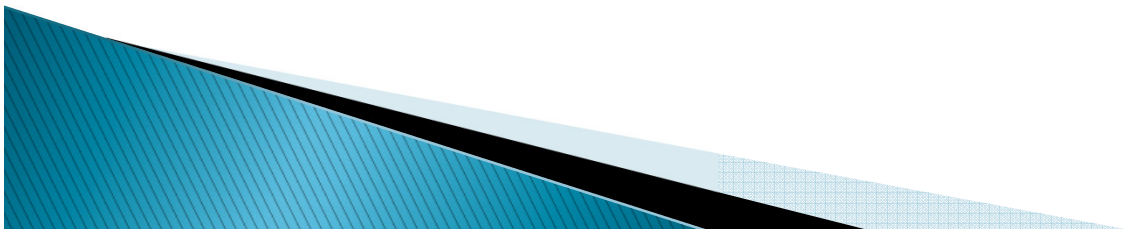
- ▶ Fair use is critical to education at all levels.
- ▶ Use of a copyrighted work, including reproductions for purposes such as criticism, comments, news reporting, teaching, scholarship or research, is not an infringement of copyright.
- ▶ There are 4 factors that are used to determine whether a use falls under the protection of Fair Use.



Four Factors of Fair Use

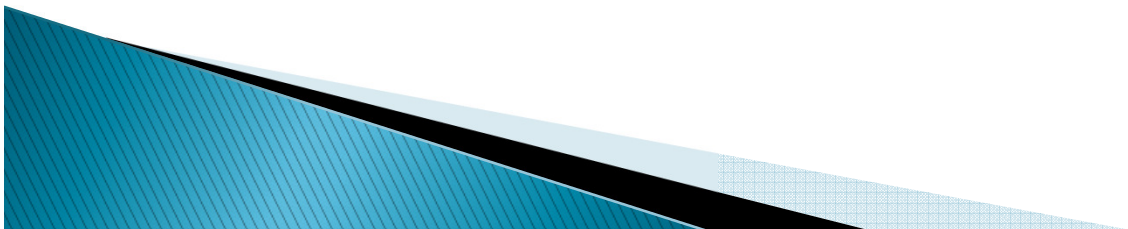
1. The purpose and character of use, including whether such use is of a commercial nature or is for nonprofit educational purposes;
2. The nature of the copyrighted work (published or unpublished; fiction or nonfiction);
3. The amount and substantiality of the portion used in relation to the copyrighted work as a whole;
4. The effect of the use upon the potential market for or value of the copyrighted work.

All four factors must be considered



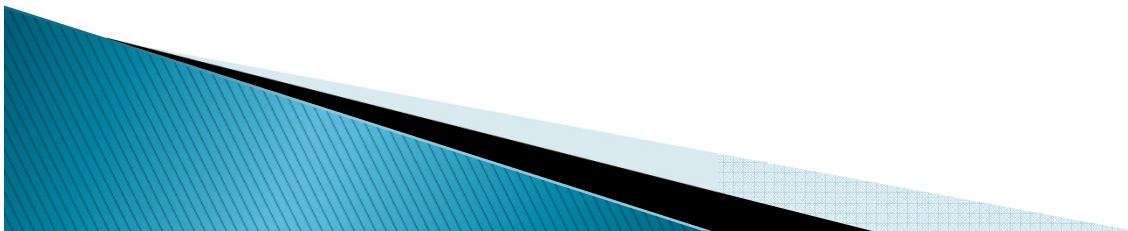
Court Cases establish Fair Use boundaries

- ▶ Basic Books v. Kinko's Graphics Corporation
 - Educational vs. for-profit use.
- ▶ Sony vs. Universal Studios (Betamax)
 - When and for what purpose can you make personal copies?
- ▶ Harper & Row v. Nation Enterprises
 - How much is too much?



What is parody?

- ▶ http://www.jibjab.com/originals/this_land
- ▶ <https://www.youtube.com/watch?v=zq7Eki5EZ8o>

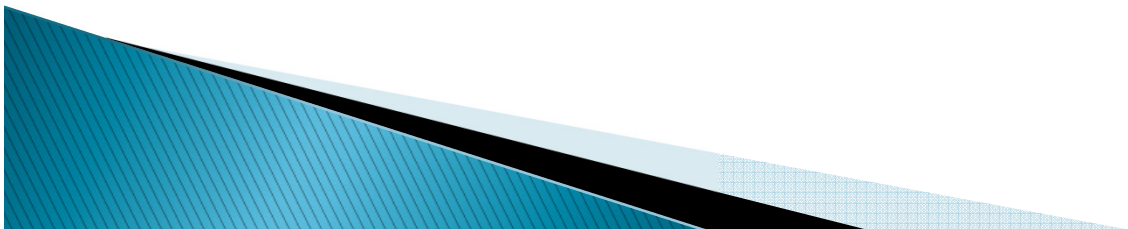


Fair use analysis

Use the fair use checklist at

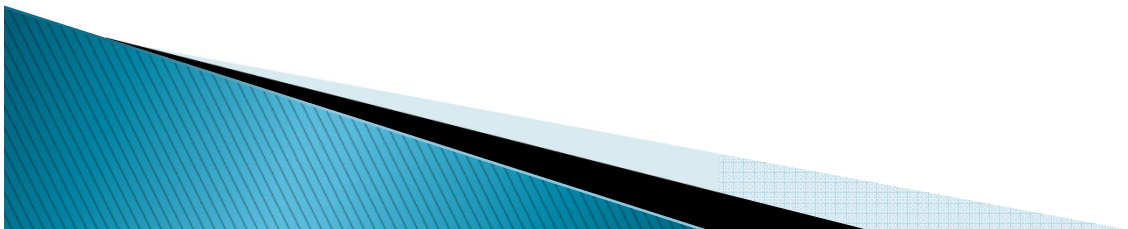
<http://copyright.columbia.edu/fair-use-checklist>

To evaluate your use of copyrighted materials.



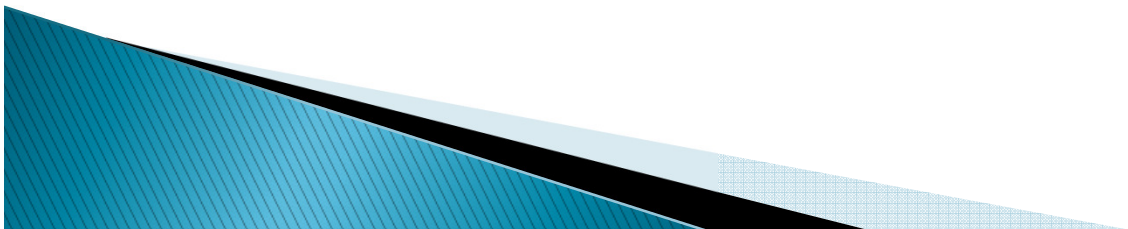
Performance and display—Section 110

- ▶ Video, dvds and films are treated differently under copyright—concern is beyond just copying; it encompasses display and performance.
- ▶ You may show a motion media work (perform) under the following circumstances:
 - performance or display of a work by instructors or pupils in the course of face-to-face teaching activities of a nonprofit educational institution, in a classroom or similar place devoted to instruction, unless, in the case of a motion picture or other audiovisual work, the performance, or the display of individual images, is given by means of a copy that was not lawfully made under this title, and that the person responsible for the performance knew or had reason to believe was not lawfully made



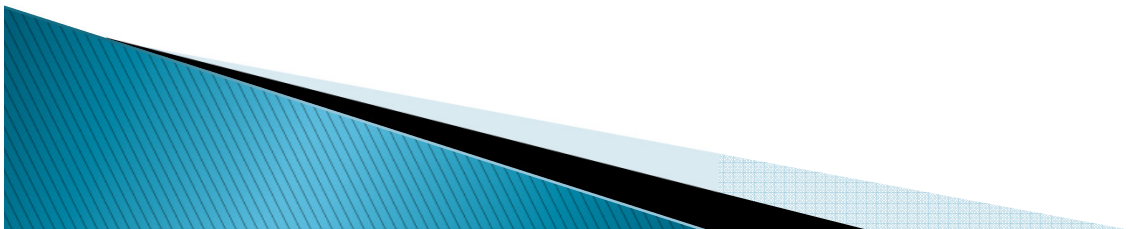
TEACH Act

- Passed in 2002 to address concerns surrounding distance education not addressed in the DMCA.
- Primarily makes changes to section 110, explicitly permits copying clips of feature films for use in online courses offered through a course management system.
- Also permits the digitization and display of still images in the same amount that would be used in a classroom.
- Institutions may choose to be TEACH Act compliant or not.
- TEACH can be used along with fair use—neither is mutually exclusive.



Keeping up with copyright

- ▶ Chronicle of Higher Education
- ▶ Inside Higher Ed
- ▶ Scholarly Communications @ Duke (Kevin Smith's blog)
- ▶ Copyright Librarian (Nancy Sims, U of Minnesota's blog)



Now for some of your
questions...

