A Framework for Analyzing Copyright Problems | adapted from © 2014 Kevin Smith & Lisa Macklin CC BY-SA

One of the most difficult issues for educators and librarians, when faced with a copyright problem, is simply knowing where to begin—which parts of the legal rules and doctrines apply to this specific problem. To deal with this uncertainty, try working through the following five questions—in order to identify which of the parts of copyright law apply to the specific problem or fact pattern that you need to address.

1. Is the work protected by copyright?
   a. Is the work I want to use protected by copyright, or is it in the public domain?
   - Chart of Copyright Term and Public Domain in the U.S. | http://copyright.cornell.edu/resources/publicdomain.cfm
   - EuropeanaConnect Public Domain Calculator | http://archive.outofcopyright.eu/
   b. If I wrote it, do I still own copyright, or did I sign over rights for my intended use to the publisher?
   - Authors and Copyright | http://scholarlycommunications.wustl.edu/copyright/authors.html

2. Is there a specific exception in copyright law that covers my use?
   a. Is my intended use covered by a specific exception to the exclusive rights in the copyright law, such as the one for libraries or for classroom performances and displays?
   - Section 108 Spinner | http://www.librarycopyright.net/resources/spinner/
   - Exemptions for Instructors in U.S. Copyright Law | http://www.librarycopyright.net/resources/exemptions/

3. Is there a license that covers my use?
   a. Is there a Creative Commons license attached to the work? If so, can I comply with the terms of the license, or can I find another useful work that is CC-licensed?
   - CC Search | http://search.creativecommons.org/
   - Guide to Finding Images | http://libguides.wustl.edu/findingimages
   b. If affiliated with an educational institution, is there a license that governs how the copyrighted material I'm accessing through my library can be used? If so, can I comply with the license terms? If you are uncertain, your librarian should be able to help you.

4. Is my use covered by fair use?
   a. Four factors are:
      i. the purpose and character of the use, including whether such use is of a commercial nature or is for nonprofit educational purposes;
      ii. the nature of the copyrighted work;
      iii. the amount and substantiality of the portion used in relation to the copyrighted work as a whole;
      iv. the effect of the use upon the potential market for or value of the copyrighted work.
   b. Questions for transformative fair use under factor one are:
      i. Does the copyrighted material help me make my new point?
      ii. Will it help my readers or viewers get my point?
      iii. Have I used no more than is needed to make my point? (Is it "just right"?)
   - U.S. Copyright Office Fair Use Case Index | http://copyright.gov/fair-use/
   - Stanford University Libraries Copyright & Fair Use Site | http://fairuse.stanford.edu/
   - CMSi Codes of Best Practices in Fair Use | http://cmsimpact.org/codes-of-best-practices/
   - ALA Fair Use Evaluator | http://www.librarycopyright.net/resources/fairuse/

5. Do I need permission from the copyright owner for my use?
   a. If so, first locate the copyright owner and fully explain your intended use in your permission request.
   b. If no response or answer is no, reconsider your use of this work to see if you can make a fair use, or consider using another work.