



Campus Copyright Issues beyond the Classroom

Copyright Services, The Ohio State University Libraries



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A Few Notes

- These are copyright questions we have heard at OSU and think others are also likely to hear.
- This is not legal advice.
- Check your institutional policies.

Copyright Basics Overview

Copyright protects original works of authorship fixed in a tangible medium of expression.

Exclusive Rights under § 106:

- Reproduce
- Prepare derivative works
- Distribute
- Publicly perform
- Publicly display
- For sound recordings: publicly perform by means of digital audio transmission.

Public Performances: Films



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Could fair use apply?

PURPOSE

and character of use, including:

- Commerciality
- Transformative (does the new work merely supersede the original work or add something new?)

NATURE

of the work

AMOUNT and substantiality of part used

EFFECT

on the marketplace or on the work's value

Define “publicly”

To perform or display a work publicly means

- (1) To perform/display in a place open to the public or any place where a substantial number of persons outside a normal circle of family or social acquaintances is gathered; or
- (2) To transmit or otherwise communicate a performance/display of the work...by means of any device or process...whether received in the same place or in separate places and at the same time or at different times.

Examples of public performances

- A student group has organized a film screening in a location where public access is not restricted.
- A student group would like to show a film as a fundraising event, open to the public.
- An academic unit would like to show a film as part of a larger program for members of the community.



Do you need a license?

- Is this a public performance that does not fall under a statutory exception?
- Does your institution already have public performance rights (PPR) for the film?
 - What uses are covered?
 - What limitations?
- Is a license already provided through the copyright owner?
E.g., some Netflix titles

Requesting a public performance license

- Who? Copyright owner (producer/studio) or authorized entity.
- Including:
 - Swank Motion Pictures
 - Criterion Pictures
 - Motion Picture Licensing Corporation (blanket license)

But I have a Netflix account!

- Netflix Terms of Use: “The Netflix service and any content viewed through our service are for your **personal** and **non-commercial** use only...**You agree not to use the service for public performances.**”
- Hulu Terms of Use: “You may only access and view the Content **personally** and for a **non-commercial** purpose...”
- Amazon Video Terms of Use: Amazon grants a non-exclusive license “to access and view the Digital Content...for **personal, non-commercial, private** use...”



Public Performances: Music



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Copyrights involved

Some uses of music may involve two copyrights:

a copyright in the **musical composition**
and a copyright in the **sound recording**.



Examples of public performances

- Concerts from student/faculty ensembles - Concert Band, Glee Club, Symphony Orchestra, etc.
- Live performances made on The Oval, student union, and buildings on campus.
- University sponsored concerts.
- Other live events.

Do you need a
license?

Does a statutory exception
apply?

Does your institution already
have a public performance
license for the music? Will this
license cover the request?



Sec. 110(4): Non-commercial performances

- Covers performance of nondramatic musical works made without any purpose of direct or indirect commercial advantage and without payment to performers/promoters/organizers, if:
 1. No direct or indirect admission charge, or
 2. Proceeds used exclusively for educational, religious, or charitable purposes and appropriate notice of objection from the copyright owner has not been received.

Public Performance License

- Blanket public performance licenses offered through 4 major PROs.



- Scope: Nondramatic performances of musical compositions within respective repertory made on the Licensee's premises.

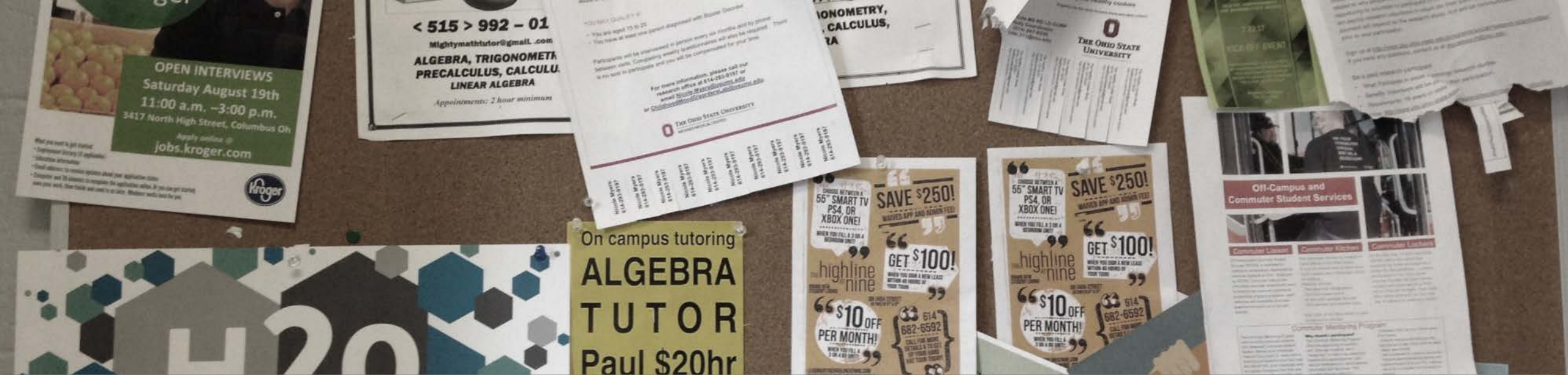
Other Considerations

- Some uses may involve other licenses- e.g., synchronization or mechanical.
- Public performance right in sound recordings is only for public performances made via digital audio transmission.
- Public performance for pre-1972 sound recordings?

Public Display: Images



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The story of the tango flyer.





Could fair use apply?

1. Why are you using the copyrighted work?
2. What type of work will you be using?
3. How much and which portion of the work will be used?
4. How will these materials be used? Print only? Online?

Promoting open alternatives

- Flickr
- Google Image: Creative Commons
- The Noun Project
- Open Clip Art
- Gratisography
- Life of Pix
- Unsplash



Photo by [Janice Lee](#) on [Unsplash](#)

Thinking about sharing

- What platforms may be covered under an institutional license?
- What are the terms of use?
- Understand the nature of takedowns.

Thank You!

Sandra Enimil Enimil.1@osu.edu

Maria Scheid Scheid.31@osu.edu

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