

Chris Wills  
ITEC 77420  
Assignment #4 – Chapter 12 Option

## MEMORANDUM

TO: Mrs. Weston  
FROM: Christopher Wills  
DATE: October 11, 2010  
RE: Recap of potential copyright issues and questions

I am aware of our school librarian's concern over what she feels are instances of copyright infringement in my classroom. Based on my conversations with her over the past week, I believe that there are three instances with which she is concerned, and that such concerns are based on applying [17 USC § 107](#), commonly referred to as the fair use doctrine, to my use of copyrighted materials. This section of the copyright laws is generally the best known and first used to test for potential infringement, and itemizes four factors which must all be met in order for the use of copyrighted materials to be considered a "fair use."

I believe our librarian is incorrect in that none of my three classroom uses of copyrighted materials would be considered allowable uses under the fair use doctrine. However, even if we find that none of my uses should be deemed acceptable under the fair use doctrine, allowable uses of copyrighted materials by non-profit educational institutions are further defined in [17 USC § 110](#), and if administered properly under that section of the copyright laws, none of the three current instances would be considered copyright infringement.

The circumstances surrounding each of the three concerns are itemized below. I have included a discussion of the pertinent points, and have also included any remediation necessary to ensure copyright compliance in future uses.

1. My showing of the movie *The Ghost and the Darkness* to my classroom. I rented the movie from our local video store and used our school VCR to show the film to my class. Under the fair use doctrine, I did so for educational purposes and without denying the film's producers compensation, although rented materials are more appropriately governed by [17 USC § 109](#), thus I met the first and fourth tests. However, this showing fails the second and third tests of brevity and criticality. [17 USC § 110](#), though, indicates that "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" is an acceptable use provided a lawfully-obtained copy of the work was used for the display (United States Copyright Office, 2009, p. 24), so this use of copyright material was appropriate.
2. My classroom showing of a personally-made videorecording of the PBS special *Clash of Cultures: The Masai in Kenya*. Again, this use meets the first and fourth tests, but fails the second and third. In this case, though, I did not use a lawfully-obtained copy of the

program, since I did not use it within the first 10 days after recording it as required by the 1979 Guidelines for Off-Air Recording of Broadcast Programming (Tiene & Ingram, 2001) and also did not use it within the one year afforded me by the PBS Extended Rights (PBS, 2010). My use would therefore fail to meet the requirements of 17 USC § 110 and would be considered an infringement. To remedy against potential infringement should I wish to use this same program in the future, I will need to purchase or rent a copy of the program; alternatively, I could have shown any of three other programs I personally recorded at home within the past week and been within the time guidelines to be in compliance.

3. My use of images from a personally-owned, commercially-produced CD copy of *National Geographic* archives. This use meets the first and fourth tests, and also meets the third and fourth tests, since I did not use all of the images in the article about the Masai, and the pictures themselves are not the most critical part of the article. This use would therefore meet the criteria in the four-factor test of 17 USC § 107 to be considered fair use. I erred, though, in photocopying the pictures for distribution to my students; it is this act of reproduction that crosses the line from copyright compliance to copyright infringement, since I provided copies to all students. To remain in compliance in the future, I will display the images either from my classroom computer, using a projector, an Elmo, or the SmartBoard, so that only one copy of the picture is used.

After my further review of the applicable copyright law, I acknowledge that my actions, although done with good intentions, were not all in line with appropriate use of copyrighted materials. The spirit of fair use is more than just citing the source for my classroom materials; it also requires me as an educator to demonstrate the importance of ownership of intellectual materials to my students so that they may learn how to properly use sources in their own work. Fair use is a two-way street, and while I may not attempt to prevent copyright holders from profiting from their work, I would also like to see publishing companies and movie houses not be able to apply such onerous burdens to my classroom use of their materials for strictly educational purposes. Without getting into a discussion of consumerism, I have a responsibility to not allow my use of copyrighted materials to approach “entertainment,” but copyright holders must also realize that all works, even those intended for paying audiences, can have significant educational impacts and should not be withheld from benefiting the public at large, in this case identified as the students in my classroom.

## References

- Columbia University Libraries/Information Services. (2009). *Other rights of use*. Retrieved from <http://copyright.columbia.edu/copyright/fair-use/other-rights-of-use/>
- FindLaw. (2010). *Notes on 17 U.S.C. § 110*. Retrieved from <http://codes.lp.findlaw.com/uscode/17/1/110/notes>
- PBS. (2010). *PBS teachers: Copyright and fair use FAQs*. Retrieved from <http://www.pbs.org/teachers/copyright/faqs.html>
- Tiene, D., & Ingram, A. (2001). *Exploring current issues in educational technology*. Boston, MA: McGraw-Hill.
- United States Copyright Office. (2009). Circular 92: Copyright law of the United States and related laws contained in title 17 of the United States code. Retrieved from <http://www.copyright.gov/title17/circ92.pdf>