

Carmen R. Cintrón Ferrer, 2020, Derechos Reservados

Derechos de Autor para la Educación a distancia

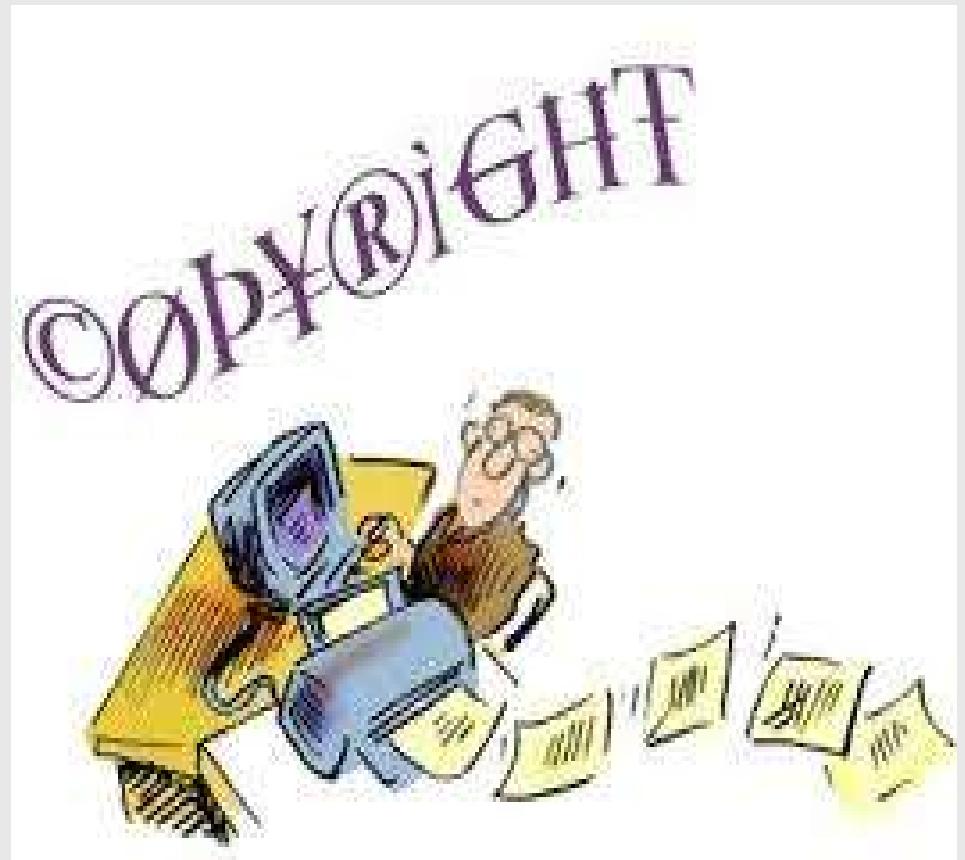
Universidad Interamericana -
Recinto de Guayama

5 de mayo de 2020



Agenda Temática

- Introducción:
- Propiedad intelectual
 - Trasfondo histórico/legal
- Derechos de autor:
 - Derechos económicos (Copyright)
 - Derechos morales
- Uso Justificado (Fair Use):
 - Instituciones académicas
 - Cursos en línea o apoyados por plataformas de educación a distancia (LMS)
- Retos



Creación artística o Invención científica:

- Protege los derechos de propiedad sobre la obra
- Otorga el derecho a controlar su uso
- Reconoce su valor económico
- Protege la habilidad para generar ingresos relativos a la creación o invención
- Excluye a terceros de explotarla sin el consentimiento del derecho habiente

Origen

- Monopolios de impresión (siglo XVI-XVII)
- Evolución hacia la sociedad industrial
- Era de la Ilustración y la libertad individual
- England Licensing Act 1662 & Statute of Anne 1710:
 - *Established the principles of authors' ownership of copyright and a fixed term of protection of copyrighted works (14 years renewable for 14 more)*

Constitución Estados Unidos (siglo XVIII):

- Promover la creación, invención e innovación
- Proteger el rédito económico
- Establecer balance a monopolios industriales
- Nutrir la investigación y la erudición (*scholarship*)
- Constitución de los EUA, Artículo I, sec. 8 (1787)
 - *Congress shall have the power: To promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries ;“*

Propiedad Intelectual

Trasfondo Histórico y Marco Legal



Tipos de Propiedad Intelectual

- Patentes
- Marcas
- Secretos de Negocio
- Copyright

Patente (20 años)	Marca (10 años, renov.)	Secreto Negocio	Copyright 70 – 120 años
Término definido	Término definido	Término indefinido,	Término definido
Ámbito cualificado	Renovable mientras se usa	más amplio	
Adviene pública	Acceso público	No compartir	Adviene pública
Compartir	No compartir/Certificar	No revelar	Compartir
Cobrar uso	Cobrar uso	Daños por develar	Cobrar uso
Daños por violar			
Reverse engineering protection	No aplica	No protegido	Parcialmente protegido

IP Awareness Assessment – USPTO <http://www.uspto.gov/inventors/assessment/>

Tipo de Protección

Ventajas de proteger:

- Reclamar protección mediante interdicto
- Reclamar daños
- Evitar competencia desleal

Derechos de Autor



Propiedad Intelectual

Derechos de autor

- Obras o creaciones
- Originales (individualmente concebidas)
- Fijadas en un medio tangible de expresión

Derechos Patrimoniales del Autor ©

- Derecho a la explotación económica de la obra
- Reproducir la obra (copiar)
- Distribuir la obra: venta, préstamo, cesión o arrendamiento (*licensing*)
- Preparar trabajos creativos derivados
- Representar (*perform*) o exponer (*display*) la obra en público
- Publicar la obra (o mantener inédita)
- Transmitir electrónicamente fonogramas digitales protegidos

Derecho Moral

- Atribución – autoría falsa o supresión
- Divulgación – mantenerla inédita
- Integridad – proteger su entereza, reputación y prestigio
- Retractación – retirar del mercado
- son personales:
 - Absolutos
 - Intransferibles
 - Inalienables
 - Imprescriptibles
 - Carentes de valoración económica

Categorías Obra Creativa

- Obras literarias, musicales
- Obras dramáticas, Coreografías y pantomimas
- Obra plástica, gráfica o pictórica
- Creación audiovisual y películas
- Grabaciones musicales
- Obras arquitectónicas
- Software o programación
- Páginas WEB, Blogs, WiKi's y otros

Creative Work under Copyright

Based on Crews (2006)

<i>Includes</i>	<i>Excludes</i>
<i>Literary and Musical</i>	<i>Ideas and Facts</i>
<i>Drama, Choreography and Pantomime</i>	<i>US Government publications, with exceptions</i>
<i>Artistic, Graphical, Pictorial</i>	<i>Forms and common property information such as calendars, lists, recipes</i>
<i>Architectural</i>	<i>Databases</i>
<i>Audiovisual, film</i>	<i>Processes, Systems, Methods *</i>
<i>Phonograms</i>	<i>Titles, names, slogans, short phrases *</i>
<i>Software, Web pages, Blogs</i>	<i>Familiar Symbols *</i>

<i>Proprietary Right</i>	<i>Examples of particular right</i>
<i>Reproduction</i>	<i>Copy or Photocopy Convert or Digitize Transfer and/or deposit</i>
<i>Distribution</i>	<i>Sale or License Share or Lease New versions or editions Diverse means of transmission or distribution</i>
<i>Derivative work - create a new work based upon the original</i>	<i>Translation Abridgement Recording of a composition</i>
<i>Public display or Performance: Where is being performed or displayed? Who has access or is attending? How many are exposed? Does it generate income?</i>	<i>Reciting and/ reading aloud Singing, acting Exhibiting Projecting or transmitting</i>

Derechos del autor (Copyright)

¿Qué se considera copiar?

- Cargar en almacén de una computadora
- Cargar en RAM de la computadora
- Convertir material impreso (*scan*)
- Digitalizar obras no escritas (imágenes, fotos, videos)
- Descargar de una sede Web
- Transferir (*upload/download*) a/de un servidor
- Transferir de un usuario a otro en una red
- Acceder archivos residentes en otro equipo



Dominio Público

Publicada antes de 1925

Publicada entre 1925 – 1977 sin aviso de Copyright ©

Publicada entre 1925-1963 con © pero sin renovar el registro ©

Toda obra publicada por un oficial o empleado del gobierno, como parte de su trabajo o funciones



Publicada entre 1925-1977 con aviso de Copyright ©:

70 años, luego de la muerte del autor
Obras anónimas o *work made for hire*
95 años de publicada o 120 de creada por encargo, la que primero ocurra
La renovación de la protección al amparo del *Copyright Renewal ACT* 1992 es automática en algunos casos



Obra creada a partir de 1 de enero de 1978:

1978-1989 Publicada sin notificación ©, pero registrada dentro (5) años o creada/publicada entre 1989 y 2002:
•70 años, luego de la muerte del autor
•Obras anónimas o *work made for hire*
95 años de publicada o 120 de creada por encargo, la que primero ocurra
2002 en adelante se presume © sin condición y aplican los términos anteriores

Derechos de autor

Términos de protección
(Dominio Público)
[CCIC](#)



Usos exceptuados:

- Bibliotecas y archivos
- Fines docentes, gobierno o servicios religiosos
- Demostraciones agrícolas o para la venta
- Transmisión a impedidos
- Presentación a organizaciones de veteranos

Limitaciones a los derechos de autor:

- Obra en dominio público
- *Fair Use* (Uso justificado)

Derechos de autor
Excepciones a derechos patrimoniales



El Quijote (1580) –
Cervantes (1547 – 1616)
([cvirtual](#)) [OD](#)

<https://cvc.cervantes.es/literatura/clasicos/quiero/>



La Charca (1894)– Zeno
Gandía (1855-1930) ([pdf](#))

Traducción de Kal Wagenheim – [Markus Weiner Publishers of Princeton \(1999\)](#)
[Reproducción](#) Gean Carlo Villegas (2013)



La Borinqueña:
[Himno/Danza](#)

Danza La almojabana (1867) Félix Astol-
Francisco Ramírez

Letra Lola Rodríguez de Tió (1868)

Letra del Himno Oficial – Manuel
Fernández Juncos (1903)



La Gioconda (1503-1506)

Obras derivadas:

- *Mona Lisa*, 1950 (Evans & Livingston – [Nat King Cole](#))
- *Mona Lisa Smile, 2003* ([trailer](#))
Uso comercial [imagen/nombre](#)

Ejercicio Copyright Dominio Público

[What is Public Domain?](#)

[Adam Ruins everything](#)

[Cornell on Copyright Term and the Public Domain in the US](#)

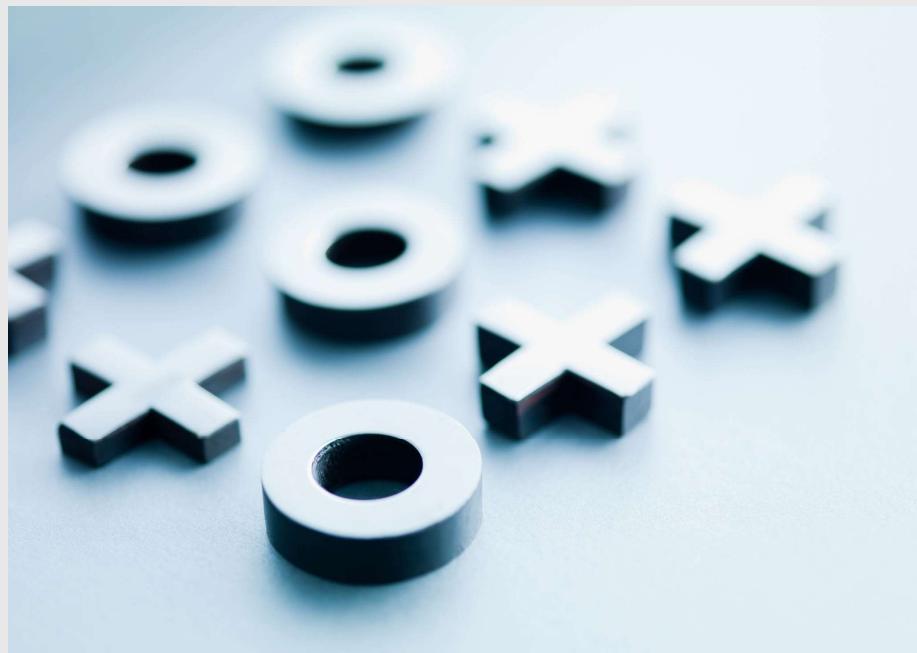
[LibraryNet – Digital Slider](#)

Uso Justificado (*Fair Use*)



Derechos de autor

Uso Justificado (*Fair Use – DMCA/Teach*)



- Críticas o comentarios y parodias
- Noticias o reportajes
- Educación, investigación o erudición (*scholarship*)
- Bibliotecas y archivos
- Uso no justificado (está excluido de *fair use*):
 - Uso comercial o con fines económicos
 - Distribución en una red si el valor excede \$2,500 (*Net Act, 1997*)
 - Educación a Distancia (*Learning Management System* no cumple con requerimientos tecnológicos)



Propósito del uso:

Educativo y sin fines de lucro
Transforma la obra original o se usa para otros fines



Naturaleza de la obra:

Publicada, en existencia o agotada
Recoge hechos o es una creación artística
Publicación gubernamental



Cantidad proporcional (*sustantiality*):

Número de copias y frecuencia de uso
Proporción del total de la obra
Porción crítica o esencial



Impacto del uso:

en el mercado, en el valor económico de la obra, o en el lucro dejado de percibir

Uso Justificado (*Fair Use—Four Factor Test*)

DOCTRINE OF FAIR USE

Fair use is the means for assuring a robust and vigorous exchange of copyrighted material.

FOUR FACTOR TEST



- Institución educativa sin fines de lucro
- Permiso para copiar:
 - Autorizado
 - Copia legítima (*First Sale Doctrine*)
 - Proporcionalidad y uso no comercial
- Uso legítimo educativo, investigativo o académico:
 - Salón de clase (presencial o virtual)
 - Lugar apoya proceso académico (i.e. Biblioteca)
 - Usuarios autorizados: comunidad académica
 - Cumple parámetros tecnológicos para uso presencial/a distancia
- Protocolo cotejo cumple con *Four Factor Test* :
 - Copyright Clearance Center – [\(Checklist\)](#)
 - Library Copyright [Fair Use Evaluator](#)
 - [TEACH Act Test LSU- Expanded Checklist](#)

Uso Justificado en la academia - Documentación

DOCTRINE OF FAIR USE

Fair use is the means for assuring a robust and vigorous exchange of copyrighted material.

FOUR FACTOR TEST



¿Qué puedo copiar?

- (1) Capítulo de un libro
- (1) artículo de revista o periódico
- Algún cuento, ensayo o poema
- Algunas tablas, gráficas, diagramas, dibujos, imágenes o ilustraciones publicadas en un libro, revista o periódico

¿Puedo hacer múltiples copias?

- Poema: 250 palabras o menos
- Narrativa:
 - 2,500 palabras o menos
 - Resumen de 1,000 palabras o menos, o 10% del total, lo que sea menor
- Ilustraciones

¿Puedo incorporar obras a presentaciones multimedia?

- Apoya actividades educativas dentro del currículo académico
- Limitado a (2) años
- Limitado a no más del 10% de la obra a incorporar: o 3 minutos si se considera *motion media*

Uso Justificado en la academia -

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FOUR FACTOR TEST



¿Qué no debo hacer?

- Múltiples copias de diferentes obras para reemplazar la adquisición de un libro, periódico o impreso
- Copiar la misma obra todos los semestres
- Copiar el mismo material para diferentes cursos en una misma institución o en más de una institución
- Depositar copias del material en mi página WEB
- Permitir acceso a la página sin restricciones
- Dejar la página accesible luego de terminar curso
- Exceder las limitaciones de uso justificado (*Fair Use*)
- Dejar de reconocer los derechos de autor (podría ser Plagio)

Cambridge University Press, Oxford University Press, Sage Publications Inc vs. Carl v. Patton et al (US Court of Appeals, 11th Circuit, 12-14676, Oct 17, 2014)

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Uso Justificado en la academia -

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FOUR FACTOR TEST



Tomado de:
Copyright & Cultural Institutions, Guidelines for Digitization for U.S. Libraries, Archives and Museums - Hirtle, Hudson & Kenyon, Cornell University Press, Ithaca, NY, 2009
(Págs. 88-89)

Exception	Application	Section
Fair use	Activities that are “fair” (as assessed using factors in the copyright Act), for purposes including criticism, comment, news reporting, teaching (including multiple copies for classroom use), scholarship, or research.	107
Distribution of a particular copy (“First Sale Doctrine”)	Subsequent lending, public display, or resale of a legally acquired copy of a work.	109
Educational use of performances	Includes in-classroom use of any work and the limited performance of nondramatic literary and musical works in distance learning.	110(1) and 110(2)
Other performances and displays of literary, dramatic, and musical works	Certain noncommercial and nonprofit charitable performances; some uses in religious services; rebroadcast in certain businesses, restaurants, and bars; use in governmental or nonprofit agricultural fairs; the performance of certain musical works in retail outlets for the sole purpose of promoting retail sales; and the transmission of performances of certain works to disabled persons.	110
Acts involving architectural works	Pictorial representations (including photographs) of buildings visible from a public place.	120
Sound recordings	Examples: compulsory license for making nondramatic recordings; broadcasts of certain sound recordings; copying sound recordings for the purpose of broadcasting or simulcasting; negotiated licenses for jukeboxes; loans by nonprofit libraries and educational institutions; noncommercial consumer use.	114–116, 118, 109, 1008
Computer programs	Reproductions made during normal use; backup copies; adaptations made to run programs on new machines; copies made as part of maintenance and repair.	117
Cable and satellite television broadcasts	Special permissions for secondary transmissions of television signals originally transmitted by someone else.	111, 119, 122
Public television broadcasts	Availability of compulsory license to cover noncommercial broadcast use.	118
Transitory reproductions	Reproductions made during the transmittal or routing of material through a network.	512



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Ejercicio Uso Justificado (*Fair Use*)

Análisis de escenarios

- [Fair Use Scenario 2](#) (video)
- [Fair Use Scenario 5](#) (video)
- Otra perspectiva
[\(Fair\(y\) Use Tail\)](#)

Aplicar 4Factors - Texto

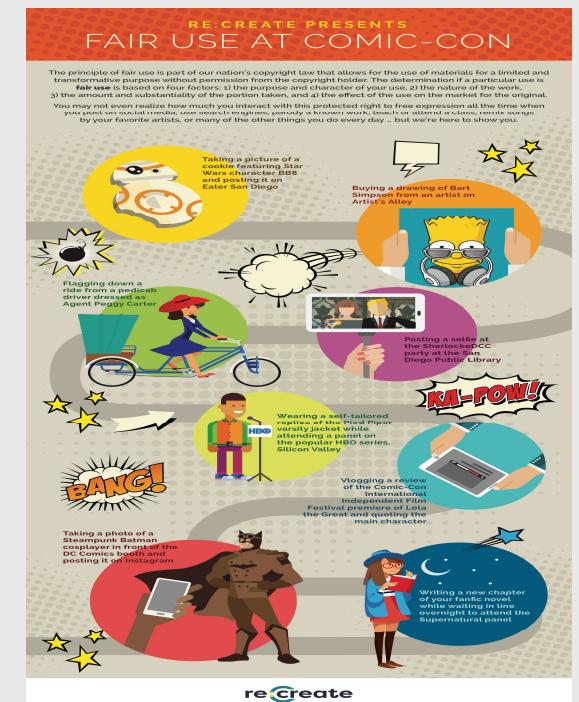
Escenario	Propósito	Naturaleza Material	Cantidad Proporción	Impacto Económico	Escenario	Propósito	Naturaleza Material	Cantidad Proporción	Impacto Económico
Rev. Jerry Falwell hizo cientos de copias de expresiones publicadas por Larry Flynt en <i>Hustler</i> y las distribuyó para apoyar una campaña de recaudación de fondos. Hustler v. Moral Majority, Inc., 606F.Supp.1526(C.D.Cal. 1985)	Non-Profit Transformative	Published	1 Page	Non-Significant	The Nation Mag. Published excerpts from ex-President Ford's unpublished memoirs, weeks before the book was to be serialized in another magazine. Harper & Row v. Nation Enters, 471U.S. 539 (1985)	For Profit Derivative	UnPublished	Full Text	Seriously harmful
A Biographer of Richard Wright quoted from 6 unpublished letters and 10 unpublished journal entries of his works. Wright v. Warner Books, 953F.2nd 731 (2nd Cir. 1991)	Informational	UnPublished	>=1%	Non-Significant	A biographer paraphrased large portions of unpublished letters written by author J.D. Salinger available at a university library, but not authorized to publish. Salinger v. Random House, 811 F2d 90 (2nd Cir. 1987)	For Profit Derivative Backbone of the Biography	UnPublished	Essential part of Biography	Capitalizing upon Salinger
Libraries that provided Google with books to scan and used scanned copies for: Preservation, full-text search & disabled patrons. Author's Guild v Hathi Trust, 1:11-cv-06351-HB(S.D.N.Y., Oct 10, 2012)	Transformative uses	Published	Full Text	No financial harm	Book published entitled <i>Welcome to Twin Peaks: a Complete Guide</i> ... with direct quotations and paraphrases from the TV Show Twin Peaks. Twin Peaks v Publications, F 2nd 1366 (2nd Cir. 1993) Summary	For Profit Derivative	Published	Substantial	Adversely affect potential market
Black Comedy <i>Hand to God</i> , features Abbott & Costello routine "Who's on First?" spoken by a repressed character, using a hand puppet to mock him for pretending to be the author. TCA Television v McCollum, No. 15 Civ.4325(SDNY Dec. 17, 1985)	Transformative use	Published			Harry Potter encyclopedia with terms & Lexicons available. Warner Bros. Entertainment v RDR Books, 575F.Supp 2nd 513 (S.D.N.Y. 2008) Summary	Slightly Transformative use	Published	Extensive verbatim text used	Capitalizing & Adversely affects market

Aplicar 4Factors - Arte

Escenario	Propósito	Naturaleza Material	Cantidad Proporción	Impacto Económico	Escenario	Propósito	Naturaleza Material	Cantidad Proporción	Impacto Económico
The makers of a movie biography of Muhammad Ali used 41 seconds from a boxing match film in their biography. Monster Communications, Inc. v. Turner Broadcasting Sys. Inc., 935 F. Supp. 490 (S.D. N.Y. 1996) .	Informative		Small portion		The makers of a movie biography of Muhammad Ali used 41 seconds from a boxing match film in their biography. Monster Communications, Inc. v. Turner Broadcasting Sys. Inc., 935 F. Supp. 490 (S.D. N.Y. 1996) .	Informative		Small portion	
Reproduce Grateful Dead concert posters within a book on band History . Bill Graham Archives v. Dorling Kindersley Ltd., 448 F.3d 605 (2d Cir. 2006) .	Transformative	Historical use	Small footprint	No market harm	Reproduce Grateful Dead concert posters within a book on band History . Bill Graham Archives v. Dorling Kindersley Ltd., 448 F.3d 605 (2d Cir. 2006) .	Transformative	Historical use	Small footprint	No market harm
A seven-second clip from the Ed Sullivan TV was used in a staged musical history ("The Jersey Boys") based on the career of the musical group, the Four Seasons. SOFA Entertainment, Inc. v. Dodger Productions, Inc., No. 2:08-cv-02616 (9th Cir. Mar. 11, 2013) .	Transformative	Biographical use		No market/ economic harm	A seven-second clip from the Ed Sullivan TV was used in a staged musical history ("The Jersey Boys") based on the career of the musical group, the Four Seasons. SOFA Entertainment, Inc. v. Dodger Productions, Inc., No. 2:08-cv-02616 (9th Cir. Mar. 11, 2013) .	Transformative	Biographical use		No market/ economic harm
Richard Prince, created a collage using — in one collage — 35 images from a photographer's book. The artist also used 28 of the photos in 29 additional paintings. In some instances the full photograph was used while in others, only the main subject of the photo was used. Cariou v. Prince, No. 11-1197 (2d Cir. 2013) .	Transformative				Richard Prince, created a collage using — in one collage — 35 images from a photographer's book. The artist also used 28 of the photos in 29 additional paintings. In some instances the full photograph was used while in others, only the main subject of the photo was used. Cariou v. Prince, No. 11-1197 (2d Cir. 2013) .	Transformative			

Escenario	Propósito	Naturaleza Material	Cantidad Proporción	Impacto Económico
A person running for political office used 15 seconds of his opponent's campaign song in a political ad. Keep Thomson Governor Comm. v. Citizens for Galleen Comm. , 457 F. Supp. 957 (D.N.H. 1978).	Non-commercial	Political debate	Small portion	
A television film crew, covering an Italian festival in Manhattan, recorded a band playing a portion of a copyrighted song "Dove sta Zaza." The music was replayed during a news broadcast. Italian Book Corp., v. American Broadcasting Co. , 458 F. Supp. 65 (S.D.N.Y. 1978).		Incidental	Portion	No actual market impact
A woman was sued for copyright infringement for downloading 30 songs using peer-to-peer file sharing software. She argued that her activity was a fair use because she was downloading the songs to determine if she wanted to later buy them. BMG Music v. Gonzalez , 430 F.3d 888 (7th Cir. 2005)	P2P file sharing	Sampling (Other options available)		Market impact
A defendant in a music file sharing case could not claim a fair use defense since he had failed to provide evidence that his copying of music files involved any transformative. Capitol Records Inc. v. Alaujan , 2009 WL 5873136 (D. Mass., 7/27/09).	P2P file sharing	Non transformative	Non fair use	

Aplicar 4Factors - Música





Fair Use (TEACH Act)

BUT IT'S FOR MY CLASSROOM!

Not all Fair Use is the same.

Find out what you can do to abide by copyright in your classroom and model good digital citizenship practices for your students.

I FOUND IT ON YOUTUBE, IT MUST BE OK.

Check to see who uploaded the video. If it wasn't the original production studio, it's probably a pirated version, and YouTube will eventually take it down.

WHERE'S THE DOWNLOAD BUTTON?

Have you ever noticed there's no "Download" button on YouTube? It's because they don't have one! Their business model is for people to visit, share, and like their website; so why would they want you to download anything?

I'LL JUST PUT A LINK TO THIS VIDEO ON MY WEBSITE

You are correct... you aren't侵犯 anything that someone else created. However, if you link to a video on YouTube, you are still infringing on their copyright when others have to access your personal website off videos and watch them.

I FOUND THIS GREAT MAP FROM GOOGLE. CAN YOU MAKE IT INTO A POSTER FOR ME?

Before you ask this question, consider a couple of things:

- 1) That funny symbol in the middle of the image is the watermark. This is how the internet companies prevent people from using their beautiful artwork without first paying for it.
- 2) Are you at least giving credit to the image? If not, then how is your poster going to profit from their hard work? If you don't own the same thing? (WHAT? You don't ask students to give credit for work that's not their own? Would you let them fail in someone else's homework?)

I'LL JUST GET EVERYTHING FROM TEACHERS PAY TEACHERS

That sounds like a great plan, but be careful here, too. Double check the terms of service for each website you're using. If you're not sure what you CANNOT post the documents on to your website, share with other teachers, or reproduce it, it's probably illegal, then (but don't worry).

- ask for permission to use their resources
- share with other teachers
- Reproduce it

I FOUND THE EXACT BOOK I'M TEACHING ONLINE. CAN'T I JUST PRINT OUT COPIES?

It depends on the book. There are some books that are in the public domain. Yes, you have some leeway with Fair Use, but don't get that confused with cutting into the profits of the publisher and author. Remember, just because something is available online doesn't mean it's free to use. It's still protected by copyright law.

How do you know if you can use it? (3) Is it available online for free? (4) Is it available for purchase? (5) Is it printed? (6) Is it probably pirated (even if it's uncopyrighted)?

- 2) Is there permission from the author or distributor to print the books? Many sites have a "printable" feature (rights management) allowing users to print a specific number of pages. If you don't see a notice about this, it's probably a pirated version.

SO WHAT DO I DO?

Remember, we want to teach our students good digital citizenship practices. The simplest way you can do that in the classroom is to model those behaviors yourself. Here are a few quick tips to get you started:

- **Ask for permission** - This is the easiest way to make sure you're not侵犯 anything. Teachers pay teachers, for example, has a section where teachers can ask for permission to use materials. Teachers can also ask for permission to use their materials in their classroom.
- Ask - talk to your media specialist. She may be able to purchase the materials you want for your classroom. Know what you want to use.
- Check Creative Rights - Many images and graphics are freely free to use. Look for phrases like "Creative Commons," "Public Domain," or "Attribution." Better yet, go to royalty free websites for images, video, and music. Even better, make these sites available for your students when they work on projects.
- Get permission - sometimes, all you have to do is ask the creator for permission.
- Give Credit - we should all get into this habit!

TEACH DIGITAL CITIZENSHIP
WE ARE MORE THAN BOOKS!

Institución educativa (acreditada) sin fines de lucro debe:

- Adoptar una política de Copyright clara
- Divulgar su aplicabilidad y cumplimiento
- Notificar a los estudiantes qué material está protegido por *Copyright ©*, incluyendo materiales educativos.

Cuando el profesor(a) determine que el material © es parte esencial de una clase o actividad y está directamente relacionado con el tema o contenido a cubrir, siempre que el uso del material está bajo su dirección o supervisión, podrá integrar:

- *Performances of nondramatic literary work or*
- *Performances of nondramatic musical works or*
- *Performances of reasonable portions of any other work or*
- *Display of any other work in an amount comparable to that typically displayed in a live classroom setting*

La transmisión del material debe ser limitada mediante controles tecnológicos:

- Estudiantes matriculados en el curso
- Solo por el término de duración del curso
- Impida la diseminación externa
- Asegure que no se afectan las medidas del autor © para limitar la retención y diseminación no autorizada

Fair Use (Teach Act)Requisitos



¿Quién la creó?:

- Uno mismo
- Empleado
- Tercero bajo contrato

¿Qué contenido incluye?

- Propio
- Obras de terceros
- Obras de dominio público
- Obras compartidas o colectivas
- Obras protegidas (Derechos de autor)

¿Dónde se deposita?

- Sede virtual institucional
- Sede personal
- Servicios en la nube

¿Quién tiene acceso y qué puede hacer?

Material que puedo utilizar

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It's common for teachers to link to interesting, fun websites, like when we're teaching our students about digital citizenship or when we have them create versions of things.

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Before you ask this question, consider a couple of things:

- 1) That funny symbol in the middle of the image is the watermark. This is how the map creators prevent people from using their beautiful artwork without first paying for it.
- 2) Are you at least giving credit to the image? If not, then how can you ask students to do that? If you don't give them credit, are you doing the same thing? (What? You don't ask students to give credit for work that's not their own? Would you let them turn in someone else's homework?)

I'LL JUST GET EVERYTHING FROM TEACHERS PAY TEACHERS

This website has a great place for teachers to sell their products. Don't forget the copyright (usually on the first page(s)). It may specifically state that you CAN'T post the documentable on your website, share with other teachers, or reproduce it. If that's the case, DON'T DO IT!

- post the documentable on your website
- share with other teachers
- reproduce it

I FOUND THE EXACT BOOK I'M TEACHING ONLINE. CAN'T I JUST PRINT OUT COPIES?

Remember, this is a盗版 version. Yes, you have some leeway with Fair Use, but don't get that confused with cutting into the profit of the publisher and author. Remember, just because something is available online doesn't mean it's recommended for public use and reproduction. How do you know if you can use it?

- 1) Consider who posted it - if the author or publisher did not post the content, it's probably a pirated version.
- 2) Is there permission from the author or publisher to print the books? Many educators print out entire books for their students. If you're only printing a specific number of pages, if you don't see a notice about this, it's probably a pirated version.

SO WHAT DO I DO?

Remember, we want to teach our students good digital citizenship practices. In the simplest way you can do this is to model those behaviors yourself. Here are a few quick tips to get you started:

- Read - check the copyright information given, especially for Teachers Pay Teachers. If it says "Personal Use Only," then you can't make an honest dollar, so don't cheat them by posting their work on your website.
- Ask - talk to your media specialist. She may be able to purchase the materials you need for your classroom.
- Check Usage Rights - some things are perfectly free to use. Look for phrases like "Creative Commons," "Public Domain," and "Fair Use." Better yet, go to royalty-free websites for images, video, and music. Even better, make these sites available for your students when they work on projects.
- Give Permission - sometimes, all you have to do is ask the creator for permission.
- Give Credit - we should all get into this habit.

Consideraciones:

- ¿Protegido o de libre uso?
- ¿Original o una copia ilegal?
- ¿Válido, cierto, preciso y confiable?
- ¿Veraz o difamatorio?
- ¿Opinión personal o resultado de una investigación?
- ¿Original y creativo?
- ¿Compilación o directorio?
- ¿Datos, procesos, ideas, metodologías o sistemas incluidos en obra publicada?

No protegido

- Obras en dominio público o de uso libre (*stated as such*)
- Obras generadas por gobiernos (*No Copyright notice*)
- Derechos de autor compartidos - [Open access Publishing](#)

Material que consigo en el Web

BUT IT'S FOR MY CLASSROOM!
Not all Fair Use is the same.

Find out what you can do to abide by copyright in your classroom and model good digital citizenship practices for your students.

I FOUND IT ON YOUTUBE, IT MUST BE OK.
Check to see who uploaded the video. If it wasn't the original production company, it's probably a pirated version, and YouTube will download it.

WHERE'S THE DOWNLOAD BUTTON?
Have you ever noticed there's no Download button on YouTube? It's not because they forgot it! YouTube is a video sharing site. Their business model is to provide their users with free content on their website; so why would they want you to download anything?

I'LL JUST PUT A LINK TO THIS VIDEO ON MY WEBSITE.
Remember this question? Consider a couple of things:
1) That footer you see in the middle of the image is a watermark. This is how the image's creators prevent people from using their beautiful artwork without first paying for it.
2) Are you at least giving credit to the image? If not, then how can you ask students to give credit to images they use in projects if you don't do the same thing? (What? You don't ask students to give credit for work that's not their own? Would you let them hand in someone else's homework?)

I FOUND THIS GREAT MAP FROM GOOGLE. CAN YOU MAKE IT INTO A POSTER FOR ME?
Remember this question? Consider a couple of things:
1) That footer you see in the middle of the image is a watermark. This is how the image's creators prevent people from using their beautiful artwork without first paying for it.
2) Are you at least giving credit to the image? If not, then how can you ask students to give credit to images they use in projects if you don't do the same thing? (What? You don't ask students to give credit for work that's not their own? Would you let them hand in someone else's homework?)

I'LL JUST GET EVERYTHING FROM TEACHERS PAY TEACHERS.
That sounds like a great plan, but be careful here, too. Double check the copyright license on the first page(s). In many cases, it says specifically state that you can't copy or redistribute the material on Teachers Pay Teachers, others with other teachers, or reproduce it. If that's the case, then **Don't Do It!**

I FOUND THE EXACT BOOK I'M TEACHING ONLINE. CAN'T I JUST PRINT OUT COPIES?
Be very cautious. The copy you found online is probably a pirated version. Yes, you have some leeway with Fair Use, but don't get that confused with cutting into the book. Just because the book is online doesn't mean it is intended for public use and reproduction. Here's what you can do:
1) Consider who posted it - if the author or publisher did not post the content, it's probably pirated (even if it's unintentional).
2) If it's a book, consider contacting the publisher to print the books? Many ebooks come with DRM (digital rights management) allowing users to print a specific number of pages. If you don't see a notice about this, it's probably a pirated version.

SO WHAT DO I DO?
Remember, we want to teach our students good digital citizenship practices. The simplest way you can do that in the classroom is to model those practices yourself. Here are a few quick tips to get you started:
• **Read** - check the copyright license provided by the website for Teachers Pay Teachers resources. Remember, these folks are trying to make an honest dollar, so they're not going to put a watermark over their content.
• **Ask** - talk to your media specialist. She may be able to purchase the materials you need.
• **Check Usage Rights** - sometimes they are perfectly free to use. Look for phrases like "free to use" and "you can use this". Better yet, go to royalty free websites for images, videos, and music. Even better, make these sites available for your students when they work on projects.
• **Get Permission** - sometimes, all you have to do is ask the creator for permission to use their work.
• **Give Credit** - we should all get into this habit.

WE USE MAKE THESE BOOKS!

Institutional

- Nonprofit accredited
- Policy on use of copyrighted materials
- Provides accurate information to faculty, students & staff about copyright
- Systems will not interfere with copyrighted material embedded controls
- Storage servers or services (LMS)
- Technology limits student's ability to:
- Retain or distribute © material
 - Access only during the class session
 - Provides access logs for material used
 - Removes deposited material after class session ends
- Network controls:
- VPN or encrypted connection*
 - Transmission protocols (P2P/ FTP)*
- Course Standard Notice:
- *The materials on this course web site are only for the use of students enrolled in this course for purposes associated with this course and may not be retained or further disseminated.*

Professor

- Material is for students in my class
- Only my students will have access
- The material is directly related, important to teaching content and will be provided at my direction during the lesson
- I will include a notice that the material is protected by copyright
- My class is part of the regular offering at the institution
- Store © material on the (LMS) or server and transmit only as permitted by the Teach Act
- The only copy is the one that will be used for the transmission
- The material complies with the type and amount authorized by DMCA – TEACH Act and is not excluded from online use
- Copies that are illegal
- Textbooks, course packs, electronic reserves or similar, that are usually purchased by students
- Material marketed for classroom use for distance education

Teach Act Checklist [LSU Toolkit](#)





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Ejercicio TEACH Act
Aplicación extendida
de (*Fair Use*) en curso
a distancia (LMS)

**Proceso y Análisis de
escenarios**

Proceso para utilizar material en curso a distancia

Dominio Público

No tiene © publicada bajo derechos compartidos

Publicada antes de 1925 o © expiró

Publicada por un oficial o empleado del gobierno

Fair Use

Institución académica sin fines de lucro

- Educación
- Investigación
- Biblioteca

Transformativo añade valor

- *4Factors test*
 - Uso académico
 - Naturaleza de la obra
 - Cantidad proporcional
 - Impacto económico

TEACH Act

Institución (acreditada)

- Adoptar política de ©
- Divulgar y ejecutar política ©
- Notificar qué material está protegido por ©

Controles sobre transmisión y acceso:

- Estudiantes matriculados
- Duración del curso
- Impide diseminación externa
- Asegura no se afectan controles impuestos por el autor

TEACH Act (Fair use)

Profesor determine:

- material © es parte esencial de una clase o actividad
- directamente relacionado con tema de sesión
- uso está bajo su dirección

Desplegar:

- *Nondramatic literary or musical*
- *Reasonable portion of any other works*
- *otherwork as typically displayed in a live classroom setting*

Utilizar

Material © y acotar nota de uso bajo Fair Use con referencia a fuente lícita

Enlace a Fuente en el Web

Solicitar permiso del autor o dueño del ©

Pagar por el uso

Sustituir por otro material

Aplicar Análisis Teach Act (Vídeo)

Escenario	Tipo de Obra	Obra excluida	Uso Diferente	4Factors Fair Use	Control Profesor	Copia Lícita	Original digitalizado
<p>Professor Wang is teaching an online Introduction to Film Studies course. Her face-to-face version of the class meets Mondays, Wednesdays, and Fridays for 50 minutes, with three-hour film screening sessions on Tuesday evenings. Students in the class learn about formal analysis, genre studies, film history, and theory. Through class lectures and readings, watching films, and several short papers, students gain the basic critical tools necessary for understanding and analyzing the language of motion pictures. The films studied in the course are: <i>Casablanca</i> (1942, Michael Curtiz), <i>Touch of Evil</i> (1958, Orson Welles), <i>Breathless</i> (1960, Jean-Luc Godard), <i>The Virgin Suicides</i> (1999, Sofia Coppola), <i>The Bicycle Thieves</i> (1948, Vittorio De Sica), and <i>Walk Hard</i> (2007, Jake Kasdan).</p> <p>The online course is being offered over the summer. Many students are working full time or have moved home, therefore they are not able to go to the Media Resources Center in the university library to watch the films there. So that students can view the assigned movies, Professor Wang asks the library to upload their DVD copies of the films to the university's streaming server. The streamed films will be available to students through Sakai for the duration of the summer semester only. Only students registered for the course will be able to access the films, and students will not be able to download or copy the films.</p>	Desplegar video (Perform)	NO	Sí, historia cine y análisis comparativo	No, pero usa copia comprada por la Universidad	Sí	Sí	NO
<p>Professor Mercer is preparing to teach a face-to-face nursing class. She plans to use Sakai to post the course syllabus and grades and to allow students to hand in assignments. As she's working on her syllabus, she receives in the mail an examination copy of <i>Mosby's Nursing Video Skills - Student Version DVD</i>, 4th Edition (Elsevier, 2013). She reads the description on the back of the DVD: "With high-definition videos demonstrating how to perform nursing procedures, Mosby's Nursing Video Skills provides up-to-date, step-by-step instructions for the most important nursing skills. Printable procedure checklists and interactive screens of required equipment make it easier to learn and remember skills, and new animations show what's happening inside the patient's body. For each skill, NCLEX exam-style review questions help you assess your knowledge." Noting that five of the procedures she will be covering in class are included on the DVD, she asks the library to copy these segments and upload them to the university's streaming server so that she can embed them in Sakai for students to view. Since there are a total of 130 procedures on the DVD, she's using less than 5% of the content.</p>	Desplegar video (Perform)	NO	No, uso para el mismo propósito comercial se desarrolló	No, aunque es <i>non-fiction</i> el uso impacta mercado	Sí	No, la copia era para evaluación	NO

Aplicar Análisis Teach Act (Música)

Escenario	Tipo de Obra	Obra excluida	Uso Diferente	4Factors Fair Use	Control Profesor	Copia Lícita	Original digitalizado
Professor Beretsky is teaching an online course about copyright. He wants to illustrate the provision of copyright law that pertains to compulsory cover licenses of music by demonstrating how cover versions may differ noticeably from original recordings. He extracted a 30 second clip from the recording of "Little Wing" by Jimi Hendrix and then about 15 seconds of the same song by Santana featuring Joe Cocker. He inserted the sound clips into his online lecture notes for the class, which he makes available on his personal website without access restrictions. In the text surrounding each sound clip, Professor Beretsky clearly states his purpose for including the song, explaining in detail the musical differences between the two pieces and what the significance of this is in relation to compulsory licensing.	Clips de 15-30 seg de música grabada	NO, es <i>non-fiction</i>	Sí, para ilustrar conceptos de ©	Sí, uso diferentemente y porción razonable	Sí, pero debe usar Plataforma LMS	Sí	NO
Professor Gonzalez teaches an ornithology class that meets twice a week. The course covers identification, field study techniques, habitats, and the basic biology of birds. The professor uses Sakai to post the course syllabus, lecture notes, and grades and to allow students to hand in assignments. One of the texts for the course is the National Audubon Society Field Guide to North American Birds: Eastern Region , Revised Edition (1994). This book will help students identify birds by sight, but not by sound. To help them learn to recognize bird calls, he copies short clips of bird calls from the Stokes Field Guide to Bird Songs: Eastern Region , an audio CD, and uploads the sound clips into his lecture notes in Sakai. Each clip is introduced by a narrator who states the name of the species after which a variety of the bird's songs and calls are presented. While the CD includes recordings of the calls of 372 species of birds, Professor Gonzalez only copies the calls of 25 species, or under 7%.	25 sonidos de un CD	NO, es non-fiction	No, uso para el mismo propósito que se desarrolló Impacta el mercado	No, la proporción excede 5% y el uso impacta el mercado	Sí	No, el CD sí tiene © aunque el canto de los pájaros no es ©	NO
Professor Lazarus is teaching an online course in the history of jazz. He wants his students to listen to the jazz standard "Tiger Rag" by Louis Armstrong as an example of Dixieland jazz. He copies the song from a CD of Armstrong's recordings that was released on Delta Records in 2002 and loads it onto the university's streaming media server. The streamed recording will be available to students through Sakai for the duration of the semester only. Only students registered for the course will be able to access the recordings, and students will not be able to download or copy them.	Canción completa	NO	La obra está en Dominio público	No Aplica			

Aplicar Análisis Teach Act (Imagen)

Escenario	Tipo de Obra	Obra excluida	Uso Diferente	4Factors Fair Use	Control Profesor	Copia Lícita	Original digitalizado
Professor Jones is teaching a MOOC on the relationship between humans and the environment in which anyone is free to enroll. One of the topics she is covering is the 2010 Russian wildfires that broke out due to record temperatures and drought in the region. The smoke from the fires produced smog that affected Moscow and other urban areas. Professor Jones found a newspaper article online about the fires, with an image from the Associated Press of tourists in Red Square wearing face masks to protect themselves from the smog. She wants to use this image in her online lecture notes to show just how bad the smog in Moscow was.	Imagen	NO	NO	NO, utiliza la foto completa			NO
Professor Lee is teaching an online photography course. His colleague Professor Jones had showed him an image from the Associated Press of tourists in Red Square wearing face masks to protect themselves from the smog during the the 2010 Russian wildfires. Professor Lee felt that this photograph was a particularly good example of image composition and depth of field. He decided to use the photo in his online lecture notes for the class, which he makes available on his personal website without access restrictions. In the text surrounding the image, Professor Lee clearly stated his purpose in displaying the image, explaining in detail how the image exemplifies the photographic concepts he is discussing.	Imagen	NO	Sí, uso para analizar técnicas de fotografía	Sí, uso diferente y es necesario para propósito educativo	Sí, pero debió usar Plataforma (LMS)		NO
Professor Banerjee is teaching a face-to-face management course that has an online component. His lectures are captured on video and then posted in Sakai for students to review. The videos also capture Professor Banerjee's PowerPoint slides. At the end of a lecture on management styles, he included a Dilbert cartoon strip as the final slide. The strip depicts Dilbert wearing Mickey Mouse ears for Halloween and stating that he is dressed up as "someone's management style." Professor Banerjee intended the cartoon to be a bit of comic relief related to the topic.	Imagen (Carton Strip)	NO	NO, obra creativa usada con ese fin	Al quedar grabado en (LMS) cae bajo exclusión	Sí		NO
Professor McCullough is preparing to teach an online course on Impressionist painting in which she plans to assign students to view numerous images of paintings from that period. While she was able to find most of the images she will need by using the institution's subscription to ARTstor , there were a handful of paintings that weren't available there. She searched Flickr and found straightforward photographs of some of the missing paintings, but the permissions were set to "all rights reserved." She downloaded the images anyway and placed them in a folder on the Sakai site for the course, figuring students can view them from there.	Pintura y Foto	NO, Pinturas Dominio público	NO, porque fotos de obras no tiene derecho a ©		Sí, enfoque debe ser incluir enlace	Descarga de fotos no recomendable	NO

Extiende el salón presencial

- Permitir el uso de material © en apoyo a la enseñanza virtual, pero a la vez, proteger los derechos de autor.
- Busca autorizar la transmisión controlada y limitada de material protegido a una audiencia legítima por tiempo definido.)
- Integrar la Notificación de *Copyright* y con el uso justificado (logo de FU)

Evitar

- Uso de materiales comercialmente diseñados para educación a distancia.
- Uso de copias ilícitas (*Pirated*)
- Exceder del uso permitido en un salón presencial (*4Factors Test*)
- Desplegar material para trasfondo o entretenimiento, uso no asociado al tema
- Utilizar video o sonido de producciones comerciales:
 - Limitar la porción (proporcionalidad), no descargue copias para evitar quede grabado.
 - Utilizar enlaces.
- Remitir los estudiantes a servicios de *Streaming*

Fair Use (Teach Act) ¿Qué no debo hacer?





RETOS



Open Educational Resources



Honestidad intelectual:

Atribución y plagio
Impacto económico



Acceso al conocimiento:

Investigación y erudición
Preservación de obra creativa
Desarrollo de obra derivada



Fair Use Act (submitted 2007) de aprobarse extiende el uso a:

Compilaciones educativas que se utilicen en el salón de clase
Acceso de una obra de interés público para fines de investigación, crítica o comentario,
Digitalización o copia en un archivo o biblioteca para preservar el original o reemplazar copias perdidas, robadas o destruidas (*damaged*)
Facilitaría la integración de nuevas tecnologías evitando violaciones a *Copyright-DMCA*



Modelo de propiedad intelectual colectivo/social:

Copyleft
Creative Commons
Open Content Alliance
Hathi Trust – Portal de Archivos Españoles - Google Books
Open Source Initiative
Open Access Publishing

Retos Protección derechos autor





Reestructuración de *Copyright*

definición copiar/distribuir/compartir obra derivada
ampliar licencia – *First Sale Doctrine*
ampliar *Fair Use* –
Reducción del término de protección económica



Proteger derechos morales: atribución/integridad obra

Impacto sobre definición plagio – robo o secuestro de ideas

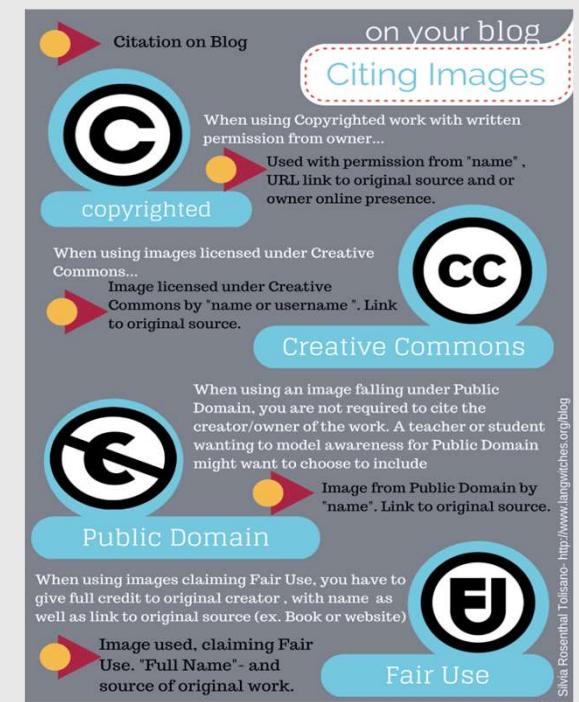


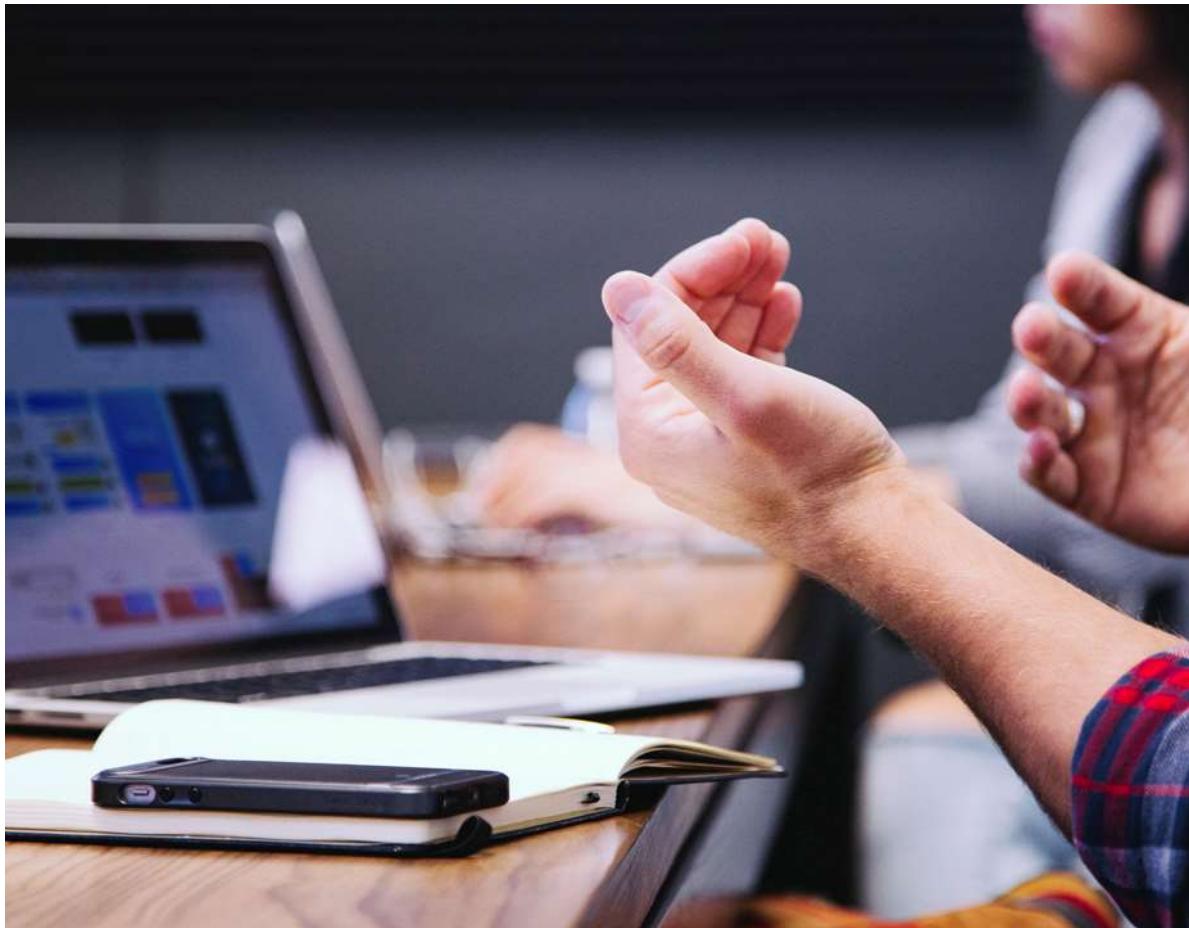
Creative Commons



Intellectual Property como activo colectivo

Propiedad Intelectual Balance Social



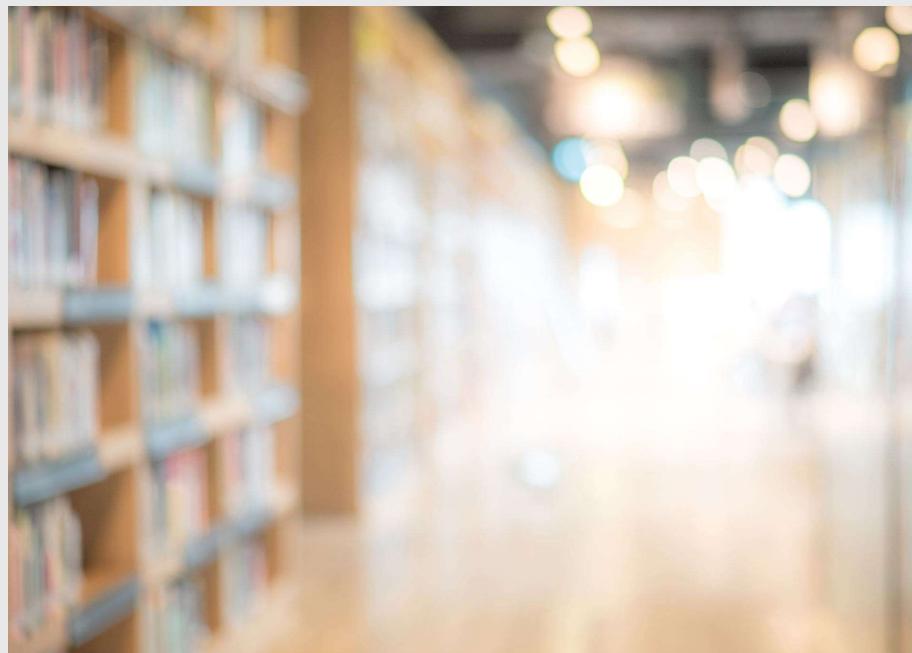


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