

# Resource Sharing & “ALL THINGS COPYRIGHT!”

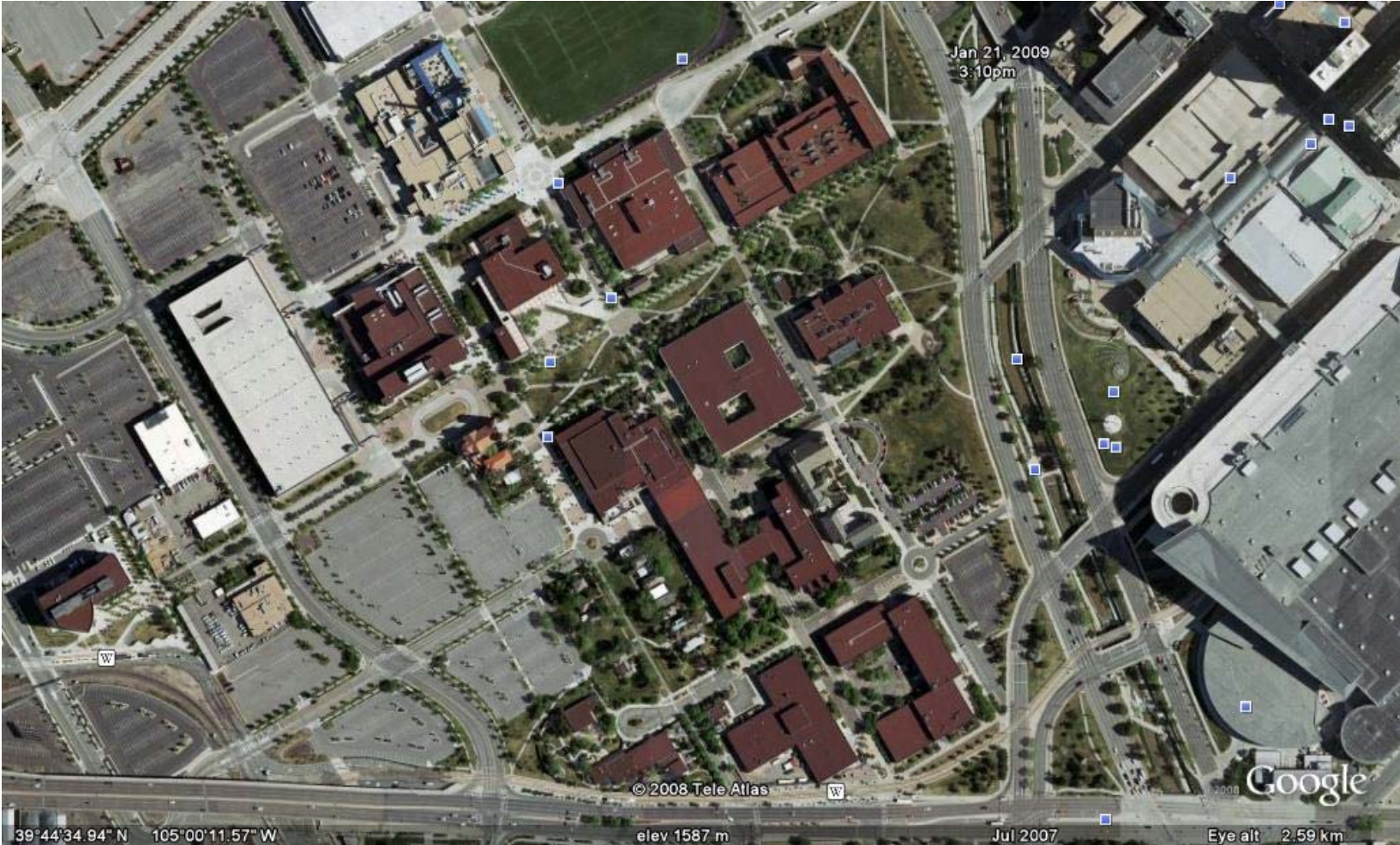
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Cindy Kristof  
Kent State University



We are here...somewhere around here...



# Copyright Law

## Title 17, United States Code

- Grants a set of exclusive rights to copyright owners for a limited period of time
- Exclusive rights are balanced with exceptions
- <http://www.copyright.gov/title17/>



# Copyright's Primary Purpose

“The Congress shall have the power...to promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors exclusive Right to their respective Writings and Discoveries.”

United States Constitution  
Article 1, Section 8

# Fair Use – Section 107

## Four Factors of Fair Use

1. Purpose & Character of Use
  - e.g., non-profit vs. for-profit
2. Nature of Work
  - e.g., factual vs. creative; published vs. unpublished
3. Amount & Substantiality of Work
  - e.g., small portion vs. large portion or “heart” of work
4. Effect of Use
  - e.g., little effect on market vs. huge impact on market value

## Fair Use Checklist

<http://www.copyright.iupui.edu/checklist.htm>

# First Sale Doctrine – Section 109

- Allows us to borrow and lend “returnables”
  - Books
  - Theses and dissertations
  - Microforms
  - Videos
  - DVDs
  - CDs
  - Whole issues or bound volumes of journals

# Reproduction by Libraries & Archives - Section 108

- Section 108 (d)
  - The copy becomes the property of the user
  - Library has had no notice that the copy will be used for any purpose other than private study, scholarship, or research
  - Library displays prominently, at the place where orders are accepted, and includes on its order form, a warning of copyright.

# CONTU

- Not to be confused with CONFU...
- “Commission on new technological uses of copyrighted works”
  - Group of publishers, librarians, teachers, and other stakeholders
- Pursuant to the Copyright Act of 1976
  - Final Report – 1978
    - <http://digital-law-online.info/CONTU/PDF/index.html>
      - Chapter 4 - Guidelines on Photocopying under Interlibrary Loan Arrangements



# CONTU Guidelines

- Provides clarification for Section 108
- Attempts to quantify...
  - “Systemic reproduction”
  - “Aggregate quantities”
- Attempts to mitigate effects of library subscription patterns on market and sales

# CONTU Guidelines

- “5/5 Rule” or “Rule of Five”
  - For BORROWING library
  - Articles published fewer than five years before date of request
  - Requesting and receiving six or more articles from a single journal title in a calendar year
    - Deny request
    - Start a subscription to the journal
    - Pay royalties on requests that exceed this rule

# CONTU Guidelines

- All ILL photocopy requests must include a copyright compliance statement by the **BORROWING** library
  - CCG
    - ILL request complies with 108 (g) (2) Guidelines
    - Falls within Rule of Five
  - CCL
    - ILL request complies with other provision of copyright law
    - Falls outside Rule of Five

# CONTU Guidelines

- Keep records of all BORROWING requests
  - Filled and Unfilled
  - Three years

# Law vs. Guidelines

- Guidelines are NOT law...



# What about Lending?

- Check for use of CCG or CCL
- Check your licenses for electronic journals
- Include copyright statement on copies provided
  - Copy the copyright statement on the piece
    - If you cannot locate it, use a stamp
      - Articles being delivered electronically have an electronic stamp
      - “Notice: This material is subject to the U.S. Copyright Law; further reproduction in violation of that law is prohibited.” (Gasaway-Wiant wording)

# What about Electronic Journals?

**License** ALWAYS trumps **law**

- Negotiate good licenses
  - Work with Technical Services
- Read your licenses
  - Yes, you too can learn “legalese”...
- Find a way to track your licenses
  - Easier said than done!

# Public Domain

- What's now in the Public Domain?
  - [http://www.copyright.cornell.edu/public\\_domain/](http://www.copyright.cornell.edu/public_domain/)
  - <http://librarycopyright.net/digitalslider/>
- Some things you may think are in the Public Domain are NOT...





# Copyright Clearance Center

- Clearance for textual works since 1978
  - <http://www.copyright.com>
  - For ILL
    - Pay royalties on “CCG” photocopies that exceed the “Rule of Five”
      - ILL transactions fall under Pay-per-use Permissions
      - Why are some clearance fees so expensive?
    - Not all publishers work with the Copyright Clearance Center

# What about non-CCC titles?

- Commercial Document Delivery Services
  - Copyright fees are included in the price
    - British Library Document Supply Services
    - CISTI (Canada Institute for Scientific and Technical Information)
- Purchase from the publisher
  - Subscriptions
  - Issues
  - Individual articles

# Questions to ask yourself...

- Is your use a Fair Use?
- Does your use fall within agreed-upon “safe harbor” guidelines?
- Is the material you would like to use licensed for your purpose?
- Is the material within public domain?

# Questions? Doubts?

- Remember copyright's primary purpose
- Consult your resources
- Ask your colleagues

# Resources

- ALA Copyright Advisory Network
  - <http://librarycopyright.net/wordpress/>
- Section 108 Study Group
  - <http://www.loc.gov/section108/>
- University of Texas System Copyright Crash Course
  - <http://www.utsystem.edu/OGC/Intellectualproperty/I-108g.htm>
- Russell, Carrie. *Complete Copyright: An Everyday Guide for Librarians*. 2004.
- Boucher, Virginia. *Interlibrary Loan Practices Handbook* (2<sup>nd</sup> ed.). 1997.
- Crews, Kenneth D. *Copyright Law for Librarians and Educators* (2<sup>nd</sup> ed.) 2006.

# Questions?

**Cindy Kristof**

Head, Access Services

Associate Professor

Kent State University Libraries & Media Services

Member of ALA Copyright Advisory Network (CAN) Team

[ckristof@kent.edu](mailto:ckristof@kent.edu)

330-672-1641

