COPYRIGHT AND OPEN EDUCATIONAL RESOURCES (OER)

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What are we going to do?

- All about Copyright

- Test your knowledge!

- Open Information/Open Access

- Open Education Resources
I am not a Lawyer

Information is of a general nature only, for campus education and awareness

Information provided today is not professional or legal advice
What is copyright?

- Copyright = “right to copy”

- Intellectual Property
  - Copyright
  - Patent Law
  - Trademark Law
  - Industrial Design
  - Confidential Information and Trade Secrets
  - Integrated Circuit Topography Protection
Copyright Act

- Federal legislation, came into effect in 1924
- Copyright Modernization Act (CMA), 2012
  - Provisions benefitting creators and owners
  - Provisions benefitting consumers
  - Ensures review of the Canadian Copyright Act every 5 years “to ensure it remains responsive to a changing environment”
Rights in creation

- A creator has two property rights in their creation
  - Right in the physical property
  - Right in the intangible property (copyright protected)

- Copyright does not protect ideas
  - Ideas are part of the public domain
  - Copyright protects the expression of ideas, not the ideas themselves
    - You may follow an idea set out in a book or an instructional video, or create work based on the same idea, without violating copyright

- Copyright does not protect facts and dates
Types of things covered by Copyright

- Every original literary, dramatic, musical, and artistic work
- Artistic work
- Architectural work
- Choreographic work
- Cinematographic work
- Collective work
- Compilation
- Computer program
- Dramatic work
- Engravings
- Lecture
- Literary work
- Musical work
- Performance
- Photograph
- Plate
- Sculture
- Work of joint authorship
- Communication signal
- Performer’s performance
- Sound recording
Originality

- In order to gain copyright protection, a work must be “original,” however, “original” is a slippery term

- Pg. 40-41 of Trosow & Murray

Fixation
- Must also meet criteria for “fixation” – “expressed in some material form, capable of identification and having a more or less permanent endurance”
  - E.g. a book or manuscript. However, not just something in writing. A manuscript saved on a computer hard drive or USB is considered fixed. Fixation of a choreographic work may be through sketches, by special dance or computer notation, or by a simple recording of the work on film (even those these are “interpretations” of the choreography and the “work” itself).
  - Lectures, speeches, address, and sermons that have been written down before presentation may not qualify as fixation, but once given, could qualify under performers presentation
Important points

- © is not required
- Duration is life of author +50 years
- We follow Canadian copyright law – no matter where the material comes from
- The law is ambiguous for a reason – there is no 100% guarantee
  - Steeped in case law and dealt with on a case by case basis
Exceptions – Fair Dealing

- Fair dealing is not defined in the Copyright Act. For a use to fall within fair dealing, you must first determine that the dealing is for one of the purposes set out in the Copyright Act, and you must assess whether the dealing is fair.

- To assess, consider:
  - The Purpose of the dealing – Does it fit into one of the eight categories?
  - The character of the dealing
  - The amount of the dealing
  - Alternatives to the dealing
  - The nature of the work
  - The effect of the dealing on the work

- Intentionally ambiguous

- Common misconceptions: people often invoke “fair dealing” in conversation by noting that they have used only a very little of the source, that they have substantially altered it, or that they were not making any money from the use.
Exceptions – cont.

- User Generated Content, “Mash-Ups”

- Back up copies

- Libraries, Archives, and Museums
  - There are many exceptions for LAMs, but an important exception deal with alternative formats of originals.

- Government Material
Permissions

- Only the owner of copyright or a person authorized by that person may give permission to use a copyright-protected work.

- Rights may be assigned or licensed. Assigning rights means permanently giving copyright, or a part of it, to someone else (the assignee). The assignee may use those acquired rights in the same manner as a copyright owner, within the limitations of the agreement setting out the assignment.

- A license temporarily permits someone else to use a copyright-protected work. There may be simultaneous licenses to multiple persons.
What are my options?

- Before using protected materials, consider alternative sources for content where permission has been purchased or granted
  - Licenced content from Leddy Library
  - Creative Commons licenced material
  - Open Access materials with re-sue rights attached

- Obtain permission from copyright holder
  - Orphan works
Images

- Start with the assumption that all images are under copyright

- Many assume we are free to use an image found on the online using a search engine (like Google), on a blog, or website. In fact, the opposite is true. Search engines like Google only point you to images and photos according to your search criteria.

- Permission must be granted, unless it falls under an exception such as fair dealing.
Other Exceptions

- Google image search: filter by usage rights

- Twitter (and *I think* facebook): you may retweet an image shared on Twitter; however, you require permission to use that same image in any manner outside of twitter.
  - E.g. you need permission to post it to your blog
  - Work around: discussing it and providing a *proper* link to the item
Images - situations that MAY NOT require permission

- Copyright has expired (life +50 years)

- You are mentioning the title or author of a photograph or other image, or describing that image, without reproducing any parts of the image

- You are linking to the image and not reproducing it. Make sure you link to a legitimate source and not to a pirated copy of the image. Linking to the original source is the lowest risk when it comes to copyright use. Do not embed an image from any linked website into your own work or site. The link should obviously take the reader to another website and not look as if the image is on your site.

- You are using data rather than reproducing, adapting, or sharing an image such as a table or chart

- You are stating facts, history, news, or events, without repeating the exact image from which you found these facts, history, news, or events.
Images - situations that MAY NOT require permission, cont.

- You are using a thumbnail print of an image and not a good quality or higher resolution version of the image

- A note on or with the image specifically states it may be used freely in any manner (and you have done some investigation to ensure the note is reliable)

- You are using the image under a specific exception in the Copyright Act

- You are using the image with permission of or under a license with the copyright owner, and according to the terms and conditions of the permission or license

- You are using an image obtained from a stock photo agency, and according to the terms and conditions of your agreement with the stock agency

- Attributing an author or resource does not eliminate the need to obtain permission
Best practices for using images

- Assume that any image you find online or elsewhere is protected by copyright.
- Linking to an image is less risky, in terms of copyright law, than copying and pasting that image onto your site.
- Create your own photos when possible. Unless you are required to take photos as part of your work duties, you own the copyright in your own photos. You should obtain a model release from any persons appearing in your photographs, which is separate from a copyright issue. Generally, obtain a model release where a person or body part, such as an identifying tattoo, is recognizable.
- Stock photo agencies provide a license to use images in their repertoire, subject to terms and conditions (to which you tacitly have agreed). For example, iStockphoto has standard and extended licenses. Each license allows you to do specific things. Read the license summaries that the stock agencies provide.
Best practices for using images, cont.

- Just because you obtained permission once does not give you unlimited use of an image. Check the permission to see if it was a one-time or multuple-use, over what period of time, and for what purposes.

- Only manipulate or morph images with the copyright holder’s permission

- Only make a coloured photo black and white with the permission of the copyright holder

- When you seek permission from an image author (for example, a photographer or illustrator), always ask first if they own the copyright in the image. They may have assigned their rights to someone else, or the images may have been created as part of their work duties. In these latter cases, it is unlikely that the image author has the right to give you permission to use the image.

- A reproduction is a reproduction is a reproduction. Whether you include an image in a magazine article, blog post, social media post or community poster, you are reproducing it and under copyright law you need permission to use it.
Best practices for using images, cont.

- If you are unable to locate the copyright owner, or they do not reply to any of your permissions requests, this does not allow you to legally use the image. Canada has an unlocatable copyright owner provision that may be helpful.

- Always give credit to the author of the image where it is reasonable to do so. When using an image in other countries or on websites or blogs accessible around the world, best practice is to respect the moral rights of attribution and integrity.

- If in doubt, get permission
### Creative Commons

#### Licenses

<table>
<thead>
<tr>
<th>Level</th>
<th>License Type</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Most Free</td>
<td><strong>Attribution</strong> CC BY</td>
<td>This license lets you distribute, remix, tweak, and build upon the original work, even commercially, as long as you credit the original creation. This is the most accommodating of licenses offered.</td>
</tr>
<tr>
<td></td>
<td><strong>Attribution-ShareAlike</strong> CC BY-SA</td>
<td>This license lets you remix, tweak, and build upon the original work even for commercial purposes, as long as you credit the original work and license your new creations under the identical terms. This license is often compared to “copyleft” free and open source software licenses. All new works based on the work should carry the same license, so any derivatives will also allow commercial use. This is the license used by Wikipedia.</td>
</tr>
<tr>
<td></td>
<td><strong>Attribution-NonCommercial</strong> CC BY-NC</td>
<td>This license allows for redistribution, commercial and non-commercial, as long as it is passed along unchanged and in whole, with credit to the original work.</td>
</tr>
<tr>
<td></td>
<td><strong>Attribution-NonCommercial-ShareAlike</strong> CC BY-NC-SA</td>
<td>This license lets you remix, tweak, and build upon the original work non-commercially. Your new works must be non-commercial and acknowledge the original work, but you don’t have to license your derivative works on the same terms.</td>
</tr>
<tr>
<td>Least Free</td>
<td><strong>Attribution-NonCommercial-Noderivs</strong> CC BY-NC-ND</td>
<td>This license lets you remix, tweak, and build upon the original work non-commercially, as long as you credit the original work and license your new creations under the identical terms.</td>
</tr>
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<td></td>
<td><strong>Attribution-Noderivs</strong> CC BY-ND</td>
<td>This license is the most restrictive of the six main licenses, only allowing you to download the original work and share it with others as long as you credit the original work. You can’t change the original work in any way or use it commercially.</td>
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Go to: PollEv.com/surveys/BC4D2r2xd to take the quiz!

PollEv.com/scottcowan728
A Task....

- Using a device available to you (e.g. laptop, netbook, tablet, smartphone), open a browser and navigate to Wikipedia (work with a friend if you have to!)


- Now count the **number of clicks** it takes to find the Wikipedia article on mushrooms (Note: you can only use **links** – no typing allowed!)
History of Higher Education: How did we get here?

- Current Nth American universities based on medieval model
  - Elitist
  - Based in a classroom (physical space)
  - Knowledge all comes from the ‘expert’

- Locking up knowledge in Universities
Modern knowledge-based society

- Democratisation of knowledge
- Learning can (should) be anywhere, anytime
- Constantly connected
- No such thing as a ‘traditional’ student
- Increasing student mobility
- Increasing student demand
- Mobile learning is the norm
Principle of Openness

Publically funded or subsidized knowledge should be freely available to all.
Open Access

- Open Access (OA) literature is digital, online, free of charge, and free of most copyright licensing restrictions
- Must acknowledge appropriately
- OA Gold vs. OA Green
- Reliable Quality?
Two ways to provide open access: Gold and Green

**Gold:** Authors publish in OA journals that provide free, immediate access at the time of publication to the articles via publisher web sites. Often, but not always, they may carry author fees, known as Article Processing Charges to be paid to the publisher to make articles Open Access. All Public Library of Science (PLOS) journals use this model.

**Green:** Authors publish in a journal, and then make their version of the article, after peer review, with revisions having been made or the publisher’s peer reviewed final draft version freely accessible online by self-archiving or depositing the article in a repository (either institutional repository such as UQ eSpace or disciplinary) upon acceptance for publication.
Cultural change in Higher Education

<table>
<thead>
<tr>
<th>Traditional</th>
<th>New</th>
</tr>
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<tbody>
<tr>
<td>Prof as expert</td>
<td>Students as partners</td>
</tr>
<tr>
<td>Knowledge dissemination</td>
<td>Knowledge creation</td>
</tr>
<tr>
<td>Prof as keeper of knowledge</td>
<td>Student as co-creator</td>
</tr>
<tr>
<td>In-class/lecture/on campus</td>
<td>Learning happens anywhere, anytime</td>
</tr>
<tr>
<td>Instructor centred</td>
<td>Student/learning centred</td>
</tr>
<tr>
<td>Passive</td>
<td>Active</td>
</tr>
<tr>
<td>Universities are elite and only path to credentials</td>
<td>Universities are one pathway to knowledge and credentials</td>
</tr>
<tr>
<td>No accountability; opacity</td>
<td>Accountability for outcomes and public funds</td>
</tr>
<tr>
<td>Input driven</td>
<td>Output driven</td>
</tr>
</tbody>
</table>
What is Open Education?

- Open access to high quality education for all global citizens

- Education and educational resources based on the principles of openness and sharing of knowledge

- May or may not be completely free

- Geographically unbound
What are OERs?

“Open Educational Resources (OER) are teaching and learning materials that are freely available online for everyone to use, whether you are an instructor, student or self-learner.

Examples of OERs include: full courses, course modules, syllabi, lectures, homework assignments, quizzes, lab and classroom activities, pedagogical materials, games, simulations, and many more resources contained in digital media collections from around the world.”

- OER Commons, OECD, 2007

UNESCO OERs: [http://goo.gl/M0yJK](http://goo.gl/M0yJK)
Open Educational Resources

- What are OERs?
  - Course materials / learning objects
  - Open Textbooks
  - Streaming videos
  - Courseware
  - Open journals
  - Lesson plans
  - Software
  - Games
  - Simulations
The 5 Rs of OERs!

<table>
<thead>
<tr>
<th>Reuse</th>
<th>Use the content in its unaltered form</th>
</tr>
</thead>
<tbody>
<tr>
<td>Revise</td>
<td>Adapt, adjust, modify, improve, or alter the content</td>
</tr>
<tr>
<td>Remix</td>
<td>Combine the original or revised content with other OER to create something new</td>
</tr>
<tr>
<td>Redistribute</td>
<td>Share copies of the original content, revisions or remixes with others</td>
</tr>
<tr>
<td>Retain</td>
<td>Keep access to the materials after the learning event</td>
</tr>
</tbody>
</table>
Opening up education...
Why should we care?
Impact on students

**Course Material Acquisition Method by Student Type**

- **2-Year Institution**
  - Illegal Downloads (Peers): 14.8%
  - Borrowed (Self): 5.5%
  - Downloaded (Self): 2.3%

- **4-Year Institution**
  - Illegal Downloads (Peers): 25.8%
  - Borrowed (Self): 12.2%
  - Downloaded (Self): 5.3%

Source: National Association of College Stores, Student Watch 2015
In your academic career, has the cost of required textbooks caused you to:

<table>
<thead>
<tr>
<th>Percentage</th>
<th>Action</th>
</tr>
</thead>
<tbody>
<tr>
<td>63.6%</td>
<td>Not purchase the required textbook</td>
</tr>
<tr>
<td>49.2%</td>
<td>Take fewer courses</td>
</tr>
<tr>
<td>45.1%</td>
<td>Not register for a specific course</td>
</tr>
<tr>
<td>33.9%</td>
<td>Earn a poor grade</td>
</tr>
<tr>
<td>26.7%</td>
<td>Drop a course</td>
</tr>
<tr>
<td>17.0%</td>
<td>Fail a course</td>
</tr>
</tbody>
</table>
Table 1: Impact of Textbook Costs (2016 and 2012)

<table>
<thead>
<tr>
<th>Answer Options</th>
<th>2016</th>
<th>2012</th>
</tr>
</thead>
<tbody>
<tr>
<td>Take fewer courses</td>
<td>47.6%</td>
<td>49.1%</td>
</tr>
<tr>
<td>Not register for a course</td>
<td>45.5%</td>
<td>45.1%</td>
</tr>
<tr>
<td>Drop a course</td>
<td>26.1%</td>
<td>26.7%</td>
</tr>
<tr>
<td>Withdraw from a course</td>
<td>20.7%</td>
<td>20.6%</td>
</tr>
<tr>
<td>Earn a poor grade</td>
<td>37.6%</td>
<td>34.0%</td>
</tr>
<tr>
<td>Fail a course</td>
<td>19.8%</td>
<td>17.0%</td>
</tr>
<tr>
<td>Not purchase the required textbook</td>
<td>66.5%</td>
<td>63.6%</td>
</tr>
</tbody>
</table>

Note: 2016 survey n = 20,557; 2012 survey n = 18,587

Source: 2016 Annual Florida State Student textbook and course materials survey
Accessed 24 Oct 2016 at: [https://goo.gl/XcDyCq](https://goo.gl/XcDyCq)
4th year Chemistry text
2014 ed
44 Chapters
1632 pages
Instructor online resources
Student online resources
Peer reviewed
Pearson Publishing

$200-$257

Sept 2016 ed (4th ed since 2012)
Multiple formats
Accessible first design
34 Chapters
1275 pages
Instructor online resources
Student online resources (also downloadable media)
Peer reviewed
OpenStax and BC Campus
CC licenced

College Physics
Urone, et al. authors
Open Stax College Publishing

$0
Does it impact learning?

Student Learning

11 Peer Reviewed Studies
48,623 Students

93% Same or Better Outcomes
So what’s the problem?
Most Important Criteria for Selecting Teaching Resources

- Proven efficacy
- Trusted quality
- Cover a wide range of subjects
- Works with LMS
- Wide adoption
- Ease of use
- Mapped to learning outcomes
- Comprehensive range of materials
- Easy to adapt
- Easy to find and select
- Ready to use
- Up to date
- Provided by my institution
- Faculty ratings
- Cost

Source: BSRG Opening The Curriculum, 2014
Babson Report

Deterrents to Adopting Open Educational Resources

- Faculty not aware of OERs
- Faculty appreciate OER concepts
- Perceived quality of OERs
- Lack of time to find and evaluate OERs
- Faculty are key decision makers for OER adoption

Open Textbooks

#TextbookBroke movement

- U.S. PIRG report *Fixing the Broken Textbook Market* (2014)
  - 65% of student consumers have opted out of buying a college textbook due to its high price. Of those students, 94% suffer academically.
  - 48% of students said the price of textbooks determined which classes they take and how many classes they take.

- SFU, UBC and others

- UWindsor Senate Student Caucus guidelines on texts recommends *open access texts wherever possible*
Open Textbooks/eBooks

- BCOpen Textbook initiative:
  - http://open.bccampus.ca/find-open-textbooks/
  - http://bccampus.pressbooks.com/books/

- The Global Textbook Project:
  - http://goo.gl/4LLEV

- OERConsortium Open Textbook project: http://oerconsortium.org/discipline-specific/

- FreeBook Centre: http://www.freebookcentre.net/

- Flatworld Knowledge: http://catalog.flatworldknowledge.com/


- CK-12 Resources: http://www.ck12.org/student/

- FLOSS Manuals: http://en.flossmanuals.net/

- Connexions: http://cnx.org/
OERs - Benefits

- Low (no) cost (students and you)
- Many different types of resources
- Modify / reuse to suit your context (sometimes within limits)
- 1000s of high quality resources
- Available to everyone
- Creating OERs increases your impact
OERs - downsides

- Have to check copyright and licencing carefully
- Time to find and validate resources
- May need to adjust / modify
- May need tech infrastructure to support
- May not be supported / ongoing development
- Not available for every need
Sleuthing out OERs for my course…

- Library Website / librarians
- eCampusOntario
- Google/Google Scholar
- Repositories
  - Ex. DOAR, ROAR, OER Commons, OpenStax, BCOpen, MERLOT, etc.
THANK YOU!

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