



## **COPYRIGHT Do's & Don'ts:** **A Concise Guide for FIU Libraries Staff** **Performing Digitization of Materials**

1. **DO** familiarize yourself with U.S Copyright Law (*17 United States Code*, Online at: <http://www.copyright.gov/title17>).

In particular, read the following sections that have applicability to Library digitization activities: Section 107: Fair Use ; Section 108: Reproduction by Libraries and Archives ; Section 109: First Sale Doctrine; Section 110(1): Performance and Displays in Face to Face Teaching; Sections 110(2) and 112(f): Distance Learning; Section 512: Limitations on liability for digital network service providers.

Additional information may be found in the Copyright Office's helpful handout, *Copyright Basics* (Online at <http://www.copyright.gov/circs/circ1.html>)

2. **DO** investigate the copyright status of each item you plan to digitize. If you determine that you do have the rights to make the digital reproduction, keep a record of your analysis (in case your decision is questioned or challenged later)
3. **DO** feel free to digitize materials in the Public Domain, i.e.. works not protected by Copyright. Such materials include works of the U.S Government; works published before 1923; and works for which an original term of copyright protection was not renewed. Refer to the chart *Copyright Term and the Public Domain in the United State*. produced by Peter Hirtle and Laura Gasaway, for some idea of what materials have fallen into the Public Domain (Online at [http://www.copyright.cornell.edu/training/Hirtle\\_Public\\_Domain.htm](http://www.copyright.cornell.edu/training/Hirtle_Public_Domain.htm))
4. **DO** apply to most foreign works (those published outside the U.S.) all rights afforded to works published in the U.S. More information can be found in *Copyright Basics*, referenced above.
5. **DO** keep current on developments and changes to U.S. Copyright law, including congressional acts and new court cases. The ALA Washington Office's *Copyright Issues* page is a good source of news and current information concerning copyright. (Online at <http://www.ala.org/ala/washoff/WOissues/copyrightb/copyright.htm>)

**TIP:** When preparing a Fair Use Analysis, use the handy web-based checklist available at: <http://www.copyright.iupui.edu/checklist.htm>

Once you've filled in the form, the site will generate a checklist for you to print and file for your records!

1. **DON'T** ignore copyright law – if you are found to be infringing a copyright holder's rights, you could be liable for statutory damages ranging from \$200 to \$30,000.
  2. **DON'T** assume that all digital reproduction in libraries is permissible because the use is 'educational' and 'not-for-profit'. Libraries and Archives can be and have been found to be 'innocent infringers' of copyright even if staff are acting in good faith or out of ignorance.
  3. **DON'T** confuse copyright with other types of rights that can also constrain digital reproduction of Library or Archival materials: intellectual property rights such as trademarks and patents; privacy rights; and rights protected under contract law such as trade secrets. The handout *Copyright Basics* (see **DO #1**) discusses the specific rights protected by Copyright Law.
  4. **DON'T** be a lemming! Do not blindly follow the precedent of other Library/Archives colleagues in making a copyright determination for your situation. What might be allowable under one set of circumstances may not be allowable in others.
  5. **DON'T** go it alone. If you are unsure whether it is okay to digitally reproduce something in the course of your work in the FIU Libraries, seek guidance from the appropriate authorities within the Libraries or the University.
- 

#### **Selected Copyright Resources Available at FIU:**

Heller, James S. *The librarian's copyright companion*, Buffalo, N.Y.: W.S. Hein, 2004. [Law Library Reference Desk KF2995 .H45 2003]

Hoffmann, Gretchen McCord. *Copyright in cyberspace : questions and answers for librarians*. New York : Neal-Schuman Publishers, c2001. [Law Library Reference Desk KF3030.1.Z9 H64 2001]

Lipinski, Tomas A., *The complete copyright liability handbook for librarians and educators*, 2006. New York : Neal-Schuman Publishers, c2006. [Green Library General Collection]

Spinello, Richard A. and Herman T. Tavani, editor[s]. *Intellectual property rights in a networked world: theory and practice* Hershey, PA : Information Science Pub., c2005. [Online NetLibrary eBooks (4-Hour Access) K1401 .I566 2005]

Stim, Richard. *Getting permission: how to license & clear copyrighted materials online & off* Berkeley, CA : Nolo, 2004. [Online NetLibrary eBooks (4-Hour Access) KF3002.Z9 S75 2004]

*The Copyright Compliance Series (Videorecordings)*. *Copyright 101; an introduction to copyright; Copyright and fair use ; Copyright, research & publication*: Derry, NH : Chip Taylor Communications, 2006. [Biscayne Bay Library AV Collections - 1st Fl.]