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Group Therapy — Digitizing Music for Web- based Music Class Reserves

Column Editor, **Rosann Bazirjian** (Florida State University)



Hey y'all out there! Do you have any gripes? Come to your therapist! Try <rbazirji@mailers.fsu.edu> or FAX 904-644-5170.

Gripe: (Submitted by Susan Zappen, Head of Technical Services, Skidmore College):

Skidmore music faculty are interested in digitizing music for Web-based music class reserves. As I understand fair use, they can use 10% but not more than 30 seconds of a musical work and limit access to their students.

Is there anyone out there who is digitizing complete pieces of music? How are they obtaining permission? Are copyright holders sympathetic to this new educational use of music?

Response: (Submitted by Georgia Harper, Manager of the Intellectual Property Section, Office of General Counsel, University of Texas System)
Fair use in any particular context involves

weighing and balancing the four fair use factors found in the Fair Use section of the Copyright Law (17 USC 107). Any numbers (portion or time limitations) associated with fair use probably derive from one or another of the various "guidelines" that have been developed by interested parties over the years to help people deal with the inherent ambiguity of the four factor test. What this means is that those numbers are not the law — only a suggestion to users that if they limit their use to those numbers, their risk of being outside the ambiguous borders of fair use is pretty low.


Using the four factor fair use test is not that hard though, and if you need to make a use of another's work that exceeds the bounds of a particular set of guidelines, I would encourage you to give the four factors test a try, rather than automatically assuming that the use is not fair and that you need permission.

If your use is educational and nonprofit, especially in a context where getting permission to do what you want to do is difficult, the use of one entire song from an album, with access limited to students in the class and for

the semester for which the music is required, would likely be fair use.

If you plan to use the same music over and over again, it's probably better to ask for permission, even if there is no established permission market for the use you need to make (ex.: creating a reserve collection of the pieces of music that students will need to study for a "History of ..." type of course). If there's no response from the copyright owner, I am fairly comfortable with continuing to use the music under the limitations set out above.

I would also note that as fully digital sound systems find their way into our Music Colleges, the need to digitize particular pieces should decrease as our collections gradually change in character from analog to digital.

I have provided detailed information about the various guidelines and how to use the four factor fair use test at my Web site, **The Copyright Crash Course**, in the document called "Fair Use of Copyrighted Material" at <http://www.utsystem.edu/ogc/intellectualproperty/copypol2.htm>. 

On The Street — Consortia Reaffirmed

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by **Eamon T. Fennessy** (The Copyright Group) <efennessy@worldnet.att.net> and **Kathy Miraglia** (Catholic University)



Respondents to our inquiring reporters presented specific experiences with library consortia and reflected myriad aspects of this community-directed activity. The fourteen institutions answering the survey ranged from nearby locations (Brunswick, Maine is "nearby" to Beverly Farms, MA where The Copyright Group is located) to distant ones (Alaska and South Africa), and in every instance but one the participants came from academic institutions. Those who not only commented on our questions but gave us permission to use their names and/or their institutions were:

- Adrian Alexander**, Big 12 Plus Library Consortium
- Freya Anderson**
- Jill Carraway**, Western Florida University
- Liz Dopp**, Rochester Institute of Technology
- Daniel Evans**, Lafayette College
- John Hempstead**, Viterbo College (Wisconsin)
- Tom McFarland**, Florida Institute of Technology
- Penny Schroeder**, Bowdoin College
- James Tobin**, University of Wisconsin-Milwaukee
- Jeri Van Goethem**, Duke University
- Carol van Zijl**, Vaal Triangle Technikon (South Africa)

The questions posed in this survey addressed several aspects of joint efforts by libraries to do the best possible job at an economical cost to their institutions.

First question: "Are you a public, academic, research or 'other' library? This was almost unanimous. The Academics won, hands down. Every respondent represented academe except for the single holdout who was the Executive Director of a Consortium (quasi academic?). Talk about getting it straight from the horse's mouth.

Do you participate in a consortium? If I had my wits about me I would have asked each librarian how many consortia he or she has joined. Not only was each answer an affirmative one, but practically every library indicated participation in multiple consortia. Many consortium names will be recognized by our readers but some acronyms are unfamiliar to some of us ... for instance NCCIHE, INCOLSA, SULAN, PALCI, and LVAIC. (Some day we'll have a contest to see how many acronyms our readers can identify.)

Third: What prompts your interest in consortia? Surprised in the answers? One librarian spelled this out very simply in his email answer ... \$\$\$\$\$\$\$\$\$\$. "Cost savings" was the most common response but others cited "shared resources," "networking," "training oppor-

continued on page 84