



SAN DIEGO STATE
UNIVERSITY

Instructional Technology Services

ITS Staff Initials _____

Video/Audio Digitizing Request

Your materials must meet one of the following three conditions to be digitized:

- ☐ 1. The materials submitted for digitizing are in the public domain
- ☐ 2. I have proof of copyright ownership or a written copyright release (please attach a copy)
- ☐ 3. My usage of the material falls under "Fair Use" or the TEACH Act (see reverse side for details)

Signature _____

Date _____

Please Note: Signature acknowledges responsibility for the recordings

Project Information

Title of Work: _____

All Course ID(s): _____

(Please include all IDs. For example: HIST101-01-Spring 2015, HIST101-02-Spring 2015)

Source Media Format: _____ Quantity: _____
(For example: VHS, .avi, etc.)

Time Index: Start _____ Stop _____

Please Note: Video format will be streamable through Blackboard only

JOB TURNAROUND TIME:

- 7-10 business days
- VHS can take up to 30 days
- We will notify you via email once job is complete

Special Instructions: Start/stop times if only a segment is desired, or if content is client-produced, provide a digital file. Also include any captioning details.

Name: _____

Department: _____

Email: _____ Phone: _____

Fair Use and TEACH Act Summary¹

Fair Use Guidelines

According to Simonson, Smaldino, Albright and Zvacek (2003), one of the myths concerning copyright is that “the doctrine of Fair Use means that copyrighted materials can be used in an educational setting without permission.” Unfortunately, ignorance is not bliss when it concerns copyright. How many times have you heard fellow educators discuss copying and sharing print materials, videotapes, audiotapes, software and downloaded materials? Perhaps they show videotapes to their class on Friday afternoons as a performance reward or copy videotape clips to a CD to use as a curriculum enhancement. Even when used under the guise of education, these activities may violate the copyright law.

U.S. Copyright Law, Title 17, Chapter 1, Section 107 (www.copyright.gov/title17) provides guidelines for fair use: “The fair use of a copyrighted work, including such use by reproduction in copies or phonorecords or by any other means specified by that section, for purposes such as criticism, comment, news reporting, teaching (including multiple copies for classroom use), scholarship, or research, is not an infringement of copyright.” The copyright law lists four characteristics teachers should know to determine copyright infringement:

1. The purpose and character of use, including whether such use is of a commercial nature or is for nonprofit educational purposes;
2. The nature of the copyrighted work;
3. The amount and substantiality of the portion used in relation to the copyrighted work as a whole; and
4. The effect of the use upon the potential market for or value of the copyrighted work.

Streaming video is not much different than using a VHS player and TV monitor in that you are publicly distributing video through your computer monitor. Unless the copyright owner has given special permission, digital video may only be used for instructional purposes in the confines of a classroom, library or auditorium. Instructional purposes would include research, demonstration, comment, criticism and news reporting (Lutzker and Rapp 2002).

You may not use the video in a public performance -whether or not you are charging admission -and you also may not redistribute the content or alter the digital video in any way. Altering includes removing sounds, adding or changing images, or using the video in editing software. Check your subscription license agreement, because the owner of the video may or may not give permission for using the digital video in Web pages or other multimedia projects and/or for distance learning.

The TEACH Act

The Technology, Education and Copyright Harmonization Act, aka the TEACH Act, was passed in November 2002. The purpose of this act is to support the changing trends in teaching -especially distance learning. You may have noticed that some free and subscription-streaming services only allow you to stream their content. The reasons for this are many, but one reason is to have control over the distribution of the content. In addition, there are other companies that provide the ability to download videos.

There are several advantages to this, but many implications and questions still exist surrounding archiving and redistribution rights such as whether or not you can archive a copy of a digital video for classroom use. The answer is: it depends. The best solution is to review your license. According to an interpretation of the TEACH Act by Kenneth Crews (2002), professor of law at the Indiana University School of Law-Indianapolis, the new TEACH Act allows one archived copy to be maintained, but it cannot be available on the Internet once a course is finished. You may find that the license gives your district greater flexibility in some instances than the TEACH Act.

Crews, K. 2002. “New Copyright Law for Distance Education: The Meaning and Importance of the TEACH Act.” American Library Association.

Lutzker, A. and A. Rapp. 2002. “Digital Battlegrounds: The Streaming Frontier.” AIME News. Summer.

Simonson, M., S. Smaldino, M. Albright and S. Zvacek. 2003. Teaching and Learning at a Distance: Foundations of Distance Education. Upper Saddle River, N.J.: Merrill/Prentice Hall.

¹ Based on Video/Audio Duplication and/or Streaming Request Form, Utah State University, 2012