**This checklist is a tool to assist you in determining whether you may distribute digital copies of works to the public, to the UCSD campus users only, or limit access to librarians and users within the UCSD Libraries only. When copyright status is unknown, an assessment of fair use must be undertaken. [[1]](#footnote-1)**

Prepared by:

Library:

Date Submitted:

**Directions:** Please provide requested information and check all boxes that apply.

Complete the first three sections of the form if the Copyright Status of the Collection or Single Object is:

* In the Public Domain,
* Held by the UC Regents,
* Or a license has been obtained by the UC Libraries from a 3rd party holding copyright.

Please complete all of the questions on the form if the copyright status is:

* Held by a third party and no license agreement exists,
* Or the copyright is unknown.

Please submit the completed form to the UCSD Digital Library Program at [dlp@ucsd.edu](mailto:dlp@ucsd.edu). If you have questions, please contact [dlp@ucsd.edu](mailto:dlp@ucsd.edu). Thank you.

1. **GENERAL INFORMATION ABOUT COLLECTION OR SINGLE OBJECT**

* Collection/Object Name:

* Collection/Object Number:

* Portion to be used (e.g. pages, items, etc.):

1. **DESCRIPTION** (**please check all that apply)**

Single Object

Collection of Objects

Format of Material to-be-made-accessible:

Text  Audio

Data Sets  Video

Graphic Materials (photographs, posters, slides, drawings, architectural records)

Other - Please specify:

1. **COPYRIGHT STATUS (please check boxes that apply)**

Public Domain. Please attach evidence indicating collection or object is in the public domain.

UC Regents. Please attach evidence indicating UC Regents hold copyright for collection or object.

3rd Party holds the copyright & license agreement exists permitting internet distribution. Please attach copy of license agreement.

3rd Party holds the copyright & license agreement does not permit open internet distribution. **If the object is in this category, access must be limited as prescribed in license.** Please attach copy of the license agreement.

3rd Party holds the copyright & NO license agreement exists. **If no license agreement exists, please complete sections (5) – (9) of the checklist in order to complete fair use analysis**.

Unknown. **If copyright status is unknown, please complete sections (5) – (9) of the checklist in order to complete fair use analysis**. **If copyright status is in the Public Domain, held by the UC Regents, or a license has been obtained from a 3rd party holding copyright submit the form with the required documentation.**

1. **OTHER IMPORTANT CONDITIONS TO CONSIDER FOR ACCESS** If a collection or object should have restricted public access and be limited to scholarly use alone or other special access conditions need to be provided once digitized, please describe the need in the space below and attach supporting documentation as appropriate. For example, for reasons of cultural sensitivity images depicting individuals from aboriginal cultures require a warning statement to alert users to what they will see.

**Note:** UCSD adheres to the practical approach in identifying and resolving rights issues outlined in OCLC’s “Well-intentioned practice for putting digitized collections of unpublished materials online” (2010)[[2]](#footnote-2) and the Triangle Research Libraries Network’s Intellectual Property Rights Strategy for Digitization of Modern Manuscript Collections and Archival Record Groups (2011).[[3]](#footnote-3)

**FAIR USE ANALYSIS**

1. **PURPOSE OF THE USE**

|  |  |
| --- | --- |
| **Favoring Fair Use** | **Disfavoring Fair Use** |
| Educational   * Teaching (including multiple copies for classroom use) * Research * Scholarship * Criticism * Comment | Promotional, commercial, entertainment or other |
| Transformative use (changes the work to serve a new purpose) | Verbatim/exact copy or use is similar to original |
| No fee charged | Profit-generating use |

1. **NATURE OF THE COPYRIGHTED MATERIAL**

|  |  |
| --- | --- |
| **Favoring Fair Use** | **Disfavoring Fair Use** |
| Factual, nonfiction, news | Creative (art, music, fiction) or consumable work (workbooks, tests) |
|  | Unpublished work |

1. **AMOUNT COPIED**

|  |  |
| --- | --- |
| **Favoring Fair Use** | **Disfavoring Fair Use** |
| Small quantity (e.g. a single chapter or journal article or other excerpt consisting of less than 10% of the work) | Large portion or entire work |
| Portion used is not central to entire work as a whole | Portion used is central or the “heart” of the work |
| Amount is appropriate to education purpose | Includes more than necessary for education purpose |

1. **EFFECT ON THE MARKET FOR ORIGINAL**

|  |  |
| --- | --- |
| **Favoring Fair Use** | **Disfavoring Fair Use** |
| No significant effect on the market or potential market for the copyrighted work | Cumulative effect on copying would be to substitute for purchase or license of the copyrighted work |
| One or few copies made and/or distributed | Numerous copies made and/or distributed |
| No longer in print; absence of licensing mechanism | Reasonably available licensing mechanism for obtaining permission to use the copyrighted work currently available, e.g. CCC licensing or off-prints available |
| Restricted access (limited to students in a class or other appropriate group) | Will be making it publicly available on the Web or using other means of broad dissemination or less limited access |
| One-time use, spontaneous use (no time to obtain permission) | Repeated or long-term use |

1. **CURATORIAL RECOMMENDATON ON ACCESS LEVEL AFTER FAIR USE ASSESSMENT**

**Public**

**Metadata only**

**UC only**

**UCSD campus only**

**UCSD Library only**

**Curator View only. Restricted cannot be displayed to Public, UCSD campus or the UCSD Library**

**Other** (please describe exception and requirements needed)

Please provide a brief written assessment for your recommended access level.

1. **DIGITAL LIBRARY STEERING COMMITTEE RECOMMENDATON ON ACCESS LEVEL AFTER FAIR USE ASSESSMENT**

**Public**

**Metadata only**

**Metadata and thumbnail only**

**Metadata, thumbnail and medium resolution**

**UC only**

**UCSD campus only**

**UCSD Library only**

**Curator View only. Restricted cannot be displayed to Public, UCSD campus or the UCSD Library**

**Other** (please describe exception and requirements needed)

Please provide a brief written assessment for your recommended access level.

**APPROVED FOR:**

Approved by:

Date Approved:

Last updated: 6/17/2011

1. In many cases, the UCSD Libraries may have a license to use material. A fair use analysis does not have to be conducted where the desired use is permitted under the terms of an applicable license. Similarly, other provisions of the copyright law cover such matters as library copying, in-class use and distance learning. [↑](#footnote-ref-1)
2. OCLC Research (2010, May 28). “Well‐intentioned practice for putting digitized

   collections of unpublished materials online.” Retrieved June 17, 2011 from

   <http://www.oclc.org/research/activities/rights/practice.pdf>. [↑](#footnote-ref-2)
3. Triangle Research Libraries Network (2011, January). “Intellectual Property Rights Strategy for Digitization of Modern Manuscript Collections and Archival Record Groups.” Retrieved June 17, 2011 from <http://www.trln.org/IPRights.pdf>. [↑](#footnote-ref-3)