

## Leadership Letter for Global MIL

### **Copyright and Media Literacy**

**02**

*It's important for educators and administrators – as well as students and parents – to have a basic understanding of the structure and purpose of legal frameworks addressing intellectual property, particularly regarding copyright.*

### **Research Highlights**

**03**

*Copyright experts: Professor Renee Hobbs, and lawyer David Sohn explain copyright laws and the strong connections to media literacy education.*

### **CML News**

**15**

*Student work by Jason Handin is now available on YouTube. He created five episodes of Fake Off to explain the Key Questions/Core Concepts of media literacy along with a bit of humor from comedian Jeremy Briggs.*

### **Media Literacy Resources**

**16**

*Find links to resources and articles to further explore the topics in this issue.*

### **Med!aLit Moments**

**17**

*Our MediaLit Moments activity, Fair Share, introduces the topic of copyright and fair use for student producers of media.*

## Copyright and Media Literacy

Intellectual property presents an ever-changing landscape in the field of law. As you will see in this issue of *Connections*, there are no simple answers, no slam-dunk directives that apply to using any intellectual property: the places and spaces where intellectual property exists is as diverse as actual real estate property that can be seen, touched, and felt.

Using intellectual property within the media literacy field is no exception. As technology has expanded the virtual world that we traverse, issues around intellectual property have become more complicated. Because of the diversity within intellectual property law – and the newness of some applications – there are varying opinions by varying experts, with varying laws in varying countries. This makes using intellectual property in a very specific place – the classroom – intimidating, indeed.

Thankfully, there is good news: scholars and practitioners alike have tackled this gnarly issue, and though “the state of the art” is always evolving, it’s important for educators and administrators – as well as students and parents – to have a basic understanding of the structure and purpose of legal frameworks addressing intellectual property, particularly regarding copyright.

Teachers need confidence to incorporate all types of media in the classroom, whether students are deconstructing and consuming that media, or producing/constructing media, online and off. Navigating copyright and policies regarding media use in classrooms is easier today, although for the uninformed, it can be perilous.

We invite you to explore current thinking from two media literacy scholars and practitioners who have explored copyright deeply from the perspective of the media literacy field – a distinction that is rare and valuable to classroom work every day, now and going forward. We thank Renee Hobbs and David Sohn (see interviews within) for their expertise and dedication to pursuing this important topic from the perspective of both educators and students, and for their ongoing efforts to make copyright friendly and empowering territory for education in the United States. Our MediaLit Moments activity offers a simple way to introduce copyright laws to middle school students.

## Interview Highlights

### Interview with Renee Hobbs, Professor of Communication Studies at the Harrington School of Communication and Media



*Professor Hobbs is an internationally-recognized authority on digital and media literacy education. She is Founder and Director of the Media Education Lab at the University of Rhode Island, and the author of “Copyright Clarity” (Corwin 2010).*

**Center for Media Literacy (CML):** Renee, you have written extensively on copyright and fair use as it applies to the use of copyright materials for mass media popular culture and digital media for media literacy education. There is certainly a lot to that topic. What piqued your interest in it?

**Renee Hobbs (RH):** My interest, and the focus of the Media Education Lab, which I founded, is to advance media literacy education through scholarship and community service. In the early 2000s, I started observing that a growing climate of fear was developing among American teachers and librarians. I was hearing things from them like, “Oh, well, we can’t play a clip of Disney’s “Aladdin” in the classroom to deconstruct it for Middle Eastern stereotypes because that would be a copyright violation.” I would say, “No, that is not a copyright violation,” and I would explain to them why over and over. But, at that time, the Recording Industry of America and The Motion Pictures Association of America had a big anti-piracy initiative. They were repeating the message that “sharing is stealing.” Meanwhile, warnings would come on at the start of movie DVDs -- “Warning, FBI, prosecutable by millions of dollars,” or something of the sort. It made people afraid and confused, and that includes teachers and librarians. I realized that fear, uncertainty and doubt were interfering with the practice of media literacy education. Clearly, you can’t teach media literacy without the use of media examples and popular culture in the classroom. You have to use copyrighted materials to deconstruct, analyze and increasingly, to remix and create. A lot of times when people hear the word “copyright,” they think, it’s all about what you CAN’T do. The way we teach copyright is about what you CAN do and critical thinking about copyright law.

**CML:** And, the Media Education Lab addresses that?

**RH:** Yes. I authored a book called “Copyright Clarity,” and we have extensive professional development materials for teachers, lesson plans, videos etc. on the topic. It’s all available on the Media Education Lab website.

**CML:** I would imagine that the **confusion about copyright goes beyond just educators.**

**RH:** Yes. At about that same time, I ran into my friend, Dr. Patricia Aufderheide from American University. She had discovered that documentary filmmakers were also struggling with misunderstandings about copyright and fair use. Some films weren't getting made because the filmmakers and producers believed that permission costs were going to be too high. She observed that fear, uncertainty and doubt among documentary filmmakers were affecting the quality of artistic practice. She teamed up with renowned copyright legal scholar Peter Jazi, who wrote a book called "Copyright Law," that is used in every American law school to teach about copyright. It focuses on a "best practices model." In essence that means that when a copyright case goes to court, the judge considers: What is common practice in this creative field? Because copyright applies to all forms of creative expression that are in tangible form: Architecture, poetry, journalism, fiction, publishing, sculpture, etc. Aufderheide and Jazi went into the documentary filmmaking community and identified best practices needed to make documentary films. Some examples -- filmmakers need to be able to quote from copyrighted work and use high quality excerpts of other people's films in order to tell new stories.

Their project was really successful. Within three years, more documentary films started coming out, because filmmakers had more confidence. At the Media Education Lab, we applied that same best practices model to the media literacy education community. In 2007, we published "The Code of Best Practices in Fair Use for Media Literacy Education." It is our foundational document, and it was vetted by a world-class team of copyright scholars and practicing attorneys. The approval of that document created an opportunity for media literacy educators that continues today.

Other creative communities have followed in our footsteps. For example, dance educators, poetry people, online video producers. Today, there are probably a dozen or more of these codes of best practice. They've really strengthened public understanding of copyright and rights of fair use.

**CML:** You brought up the word "confidence." It seems that confusion about copyright and fair use can truly stifle creativity by hampering creators' confidence. By using copyright education to give people their confidence back, we empower creative content producers. And today, everybody is a content creator.

**RH:** That's right. Media literacy educators help students to be creative authors and digital authors. Knowing about copyright and how to determine fair use is a big part of that.

**CML:** Would you please **define fair use**?

**RH:** The Doctrine of Fair Use is Section 107 of the Copyright Act of 1976. Copyright law gives authors a lot of strong protections – the right to copy their work, to display their work, to perform their work, and more. United States copyright law is the strongest of all the copyright laws in the world. But, it does include balance. Authors have rights, but so do users of copyrighted material.

One of the most important sections of the law is called the Doctrine of Fair Use. It says that under some circumstances, users can copy copyrighted work without payment or permission. In general, that right is granted when the social benefit of using the material is higher than the private harm done to the copyright holder. We've identified three questions to help digital authors make a fair use determination. The first is, "Am I repurposing the work or using the original for a different purpose than it was originally intended, or Am I adding value?" An example would be when a teacher uses a clip of a Disney movie to teach media literacy. Using the clip for education is a very different purpose than that of the movie's author – they created the movie for commercial entertainment purposes.

Question number two: "Could my work be a market substitute for the original?" If it could, that is a copyright violation. For example: A young student may want to make a music video of Michael Jackson's "Thriller" in their back yard and act it out with zombies. I ask them, "Are you repurposing that music and adding value?" They say, "yes," because it uses zombies. Then I ask if the zombies added value. They usually aren't too sure about that. But, then I ask them if their music video could be a market substitute for the original once they post it online. That's when the child normally realizes that it could be used as a substitute and therefore is a copyright violation.

Number three: "Did I use just the amount of the copyrighted work I needed to accomplish my purpose?" That can take some consideration to determine. For instance, if you are going to use a photograph, you're not going to use a portion of it. A photo is not like a written document where you can just pull a paragraph or two. If you use a photograph, you have to use 100% of the work, or it doesn't make any sense.

**CML:** So, determining whether or not to use copyrighted material can be looked at as a critical process of inquiry, just like media literacy.

**RH:** Exactly. Like media literacy, asking those three questions involves a reasoning process where you have to think about what the author's original purpose was, and then identify your own purpose and how it is different.

**CML:** Using copyrighted material the wrong way is illegal. **Who is responsible for enforcing copyright laws?**

**RH:** Copyright holders are responsible for finding out if anybody has used their work in a way that's a violation of their copyright. They are their own "cops." When an author has detected a copyright violation, they are also the ones who have to go through the judicial process.

Sometimes, content creators choose not to go after people who violate their copyright. In fact, there's a really interesting dialogue going on right now involving Viacom. They recognize that a big part of what makes media popular is fans' ability to circulate it. Viacom knows that not clamping down on copyright violators financially serves the company's best interests. For instance, fanfiction for Harry Potter. (Fanfiction is fiction about characters or settings from an original work, created by fans of that work rather than by its creator.) It's legally questionable whether fanfiction is a copyright violation or not, but everybody recognizes that those fans are helping Harry Potter as a brand to stay viable for the next generation. It's free publicity. Ultimately, content creators have the freedom to choose whether to go after copyright violators or not.

**CML:** Copyright law is neither simple nor straight forward and that makes teaching it very challenging for educators. **What types of curriculums are out there**, and how do educators choose the one that best fits the needs of their students?

**RH:** In my book, "Copyright Clarity" we take a look at the copyright education curriculum materials that were created by different stakeholders. Copyright curriculums have been created by the Recording Industry Association of America, Motion Picture Association of America, Copyright Alliance and Electronic Frontier Foundation. Each of these copyright curriculums has a point of view and a bias. As we say in media literacy, all media messages are selective and incomplete. So, of course, these curriculums are no exception. The book helps teachers recognize a point of view that might be in a copyright curriculum through a media literacy analysis. Then, we simply say to teachers, "You can use any or all of these curriculum materials. Just recognize they have a point of view." That has been a big eye opener for teachers -- recognizing that there are different stakeholders in the copyright education community that have different political and ideological differences, as well as understandings of how to teach about copyrights.

**CML:** Laws change with society and technology. The internet must have been an impetus for changing copyright laws. **Can you cite an example that had an effect on educators?**

**RH:** In 1998, Congress created the Digital Millennium Copyright Act (DMCA). This was the law that let ISPs, including Google and YouTube, off the "copyright hook." The question it addressed was, if copyrighted material was transmitted illegally by a user, could Google, YouTube, etc. be sued? The law was created to keep companies like YouTube and Google from being sued out of existence. Even today, ISPs cannot be sued for copyright violation. This law also criminalized the copying of DVDs and paved

the way for copy protected DVDs.

Eventually, congress recognized that this law was actually in violation of both the first amendment and Section 107 of the Doctrine of Fair Use. So, they created a mechanism to balance it: If you believe that your rights have been violated by the DMCA, every three years, you have the right to go before the Librarian of Congress in a legal proceeding and ask for an exception. Way back in 2006, a media literacy educator from the University of Pennsylvania went through this process. He was teaching a song that was part of a film so, he didn't want to show his class the whole film, he just wanted to show an excerpt that included the song. Low and behold, they granted him permission for use in higher education. When I read about that, I thought about how that situation could apply to media literacy educators and really, all K-12 educators. So, I waited until the second proceedings in 2009, and I petitioned the copyright office. It wasn't easy, but with the help of a social studies teacher from Chicago, permission was granted. But there was still more to do. I went back in 2012 and 2015 to argue that this permission can't just be for teachers. These days students need access to copyrighted material too, because they are now media and content producers. For example, if a young student of media literacy wants to make a remix of references to "Romeo and Juliet" as part of a school project, they should be able to do that. The copyright office just granted my request for that in May 2018.

I also just petitioned for the rights of K-12 teachers, students and media literacy educators working outside of schools, like in settlement houses, libraries, museums or non-profit organizations. We'll find out in October whether my petition was granted. But, as complicated is that process has been, now, DVDs are becoming obsolete. Meanwhile, streaming media has new kinds of restrictions. Things in this area are always changing, and fast! I suspect we're going to be fighting this battle for years to come, as content providers want to lock down their content and make us pay every time we use something. But media literacy educators want to be able to use popular culture and digital media flexibly for educational purposes.

**CML:** It's very difficult to anticipate what copyright challenges new technologies will bring with them. For example, augmented reality and machine learning. Is there anything copyright experts can do now to prepare for the future, or do we just have to wait until newer technologies are here and react to them?

**RH:** That's a question I regularly explore with my students. Copyright experts themselves are trying to imagine the future of copyright. One of the most influential voices in that field is the legal scholar Yochai Benkler. He wrote a very influential book called, "The Wealth of Networks," where he did a legal analysis comparing the traditional content industries and their approach to copyright. Then he looked at open source, which is the way most of the digital devices that we use today were built. Programmers routinely copy from each other's work. Github, for example, is a giant repository, where

programmers from all over the world have freely shared their code. They build upon each other's knowledge and content. And, the rapid rate of change that has been happening in the digital media environment has also happened with open sharing of intellectual property. It's less of a closed, locked-down approach, like it was for 20<sup>th</sup> century industries. Some programmers argue that giving away your code doesn't mean you don't make money. There's still a very robust economic model in place for digital media. It's just that the building blocks of how they get built -- the codes -- are freely exchanged.

Some people say the rise of digital culture shows the value of shifting our thinking from copyright as something that is locked down to something that is opened up, and if copyright law went away, and free sharing became the norm, there would be a tremendous economic benefit for everyone -- creators and consumers alike. I think it is very intriguing to reflect on that possible future. We would share what we create more freely so that we could create more diverse things of value.

Benkler started a conversation among people in the creative communities and legal communities about imagining a future where copyright law either goes away or is increasingly limited. I feel like it's a conversation that the public should weigh in on. It's not something that just the experts should discuss. We are all creators. We are stakeholders in copyright as both users of copyrighted material and as authors ourselves.

But, there is another side to this discussion: If people who make their living by creating content no longer benefit financially from that, does that limit motivation for innovation? These are exactly the questions that the copyright teams are exploring. They are also some of the questions that I address in my new book, "The Routledge Companion on Media Education Copyright and Fair Use."

**CML:** That is especially important for students now, since **education emphasizes construction, production, participation and sharing due to social media.**

**RH:** The topic of copyright is hard to synthesize, but it's wonderfully rich, and it creates insightful conversations for students – questions that are closely related to media literacy education and content sharing. Students want to use copyrighted material in their own creative work. So, it's more important than ever to help them to engage in a process of reasoning about how to do that. It's also crucial to help students understand that creativity is combinatorial. Sometimes students come in with this attitude: "I'm not creative." You're trying to get them to do some media production activity and they believe they can't.

Well, Aristotle essentially said, "One plus one equals three." How can that be? Because humans create by taking old ideas and blending them together. We take one idea, and



then learn from somebody else who exists in the world, then we take another idea that's somebody else's, and we put them together to form a new idea. That's how human creativity works.

Isaac Newton said, "If I have seen further than others, it's because I have stood on the shoulders of giants." We are all influenced by everything that we read, see, listen to, use and play with. We should understand that's the essence of the creative process. We shouldn't be afraid of that. Everything I read influences how I write. Everything that I listen to influence the music I make.

**CML:** Understanding copyright and fair use means accepting complexity and thinking critically. That is such a hallmark of what is created through teaching media literacy in general. **How do you think critical thinking and media literacy plays into teaching about copyright?**

**RH:** Sometimes when teachers are first learning about the Doctrine of Fair Use, they see it as a "get out of jail free card." They say, "Wow, so if I say that I'm repurposing and adding value, and I'm retransmitting, and I'm using just the amount I need, I can take anybody's stuff and use it for anything." Well, no. If you ever try to apply fair use just to avoid paying for something, that's a red flag. That's not the way you use the concept. The fair use reasoning process requires what we would call "strong sense critical thinking," which means a genuine dialectic occurs, like in a debate. You have to genuinely hear both sides of the argument, develop evidence on both sides, and then deliberate before making a determination. Teaching about copyright by having students actually reason through whether or not they can use copyrighted materials really develops those critical reasoning skills. That's also true for media literacy education. Teaching media literacy can teach something about copyright, and teaching copyright can teach something about media literacy. There is a reciprocal relationship between the disciplines.

## Interview with David Sohn, Copyright Lawyer



*David Sohn was the principal legal advisor during the development of "Copyright and Creativity for Ethical Digital Citizens," a suite of curriculum materials focused on copyright and fair use. He was previously the General Counsel and Director of the Digital Copyright project at the Center for Democracy and Technology (CDT) in Washington DC.*

**Center for Media Literacy (CML):** You are an attorney by profession, and you were an instrumental part of a team that wrote a curriculum to help teachers educate K-12 students on the basics of copyright, fair use, etc. Not every attorney ends up creating school curriculums. Would you please tell me about your background and how you ended up doing that?

**David Sohn (DS):** I worked on copyright policy in Washington, DC for many years. I was the director of the Digital Copyright Project at the Center for Democracy and Technology, which is a nonprofit advocacy group in Washington, DC that advocates for policy that will support a free and open internet. As the organization's policy leader on copyright, I was involved in various debates over whether and how copyright law should change. It was interesting work because over the years, there have been some rather heated debates in Washington, DC over what copyright law should look like and whether changes in technology require changes in the law. From my perspective, many of the challenges that technology surfaces, such as the possibility of people using the internet to engage in copyright infringement, aren't going to find 100% solutions in enacting new copyright laws or trying to get stricter about enforcing the current ones. A smarter approach would need to include utilizing copyright education as a tool to wrestle with some of the challenges that new technology creates. With some education, people can make decisions founded upon a better general sense of the basic copyright framework, so policymakers won't be facing such a big disconnect between what the law says and what most people actually do.

A few years ago, I had the opportunity to serve as a legal advisor on a copyright education project with an organization called iKeepSafe. They were crafting copyright education materials, and I gradually became more and more involved. The project has now been spun out of iKeepSafe, and the next step is to get the resources out there to more teachers and schools. As I've spent more time thinking about copyright education and where it fits, I've also gained more exposure to the world of media and information literacy, because there's definitely a relationship there.

**CML:** How do you see that relationship?

**DS:** Today's kids have a lot of powerful technology at their fingertips from a very early age. As a result, they need education on a range of topics. Copyright is one of them. But

they also need to know about things like protecting their privacy and engaging in sound practices from a cybersecurity standpoint. Similarly, some of the media literacy questions around assessing information and determining what is credible and what's not build important skills for kids in the 21st century. Ideally, I'd like to see all of those needs integrated into the education system. This generation of kids was born at a time when they're on the internet and using digital technology from day one. They're going to need to learn how to do that appropriately, safely, responsibly and effectively. That requires facility with copyright basics, as well as media and information literacy.

**CML:** It's clear that **21<sup>st</sup> century education** could be improved greatly with the addition of copyright and media literacy education. But historically, both of those topics haven't been a top priority. Why do you think that is?

**DS:** Copyright is often seen as an esoteric subject. It's thought of as something that's important to know if you're in the publishing business, you work at a movie studio, or you're a legal specialist. But, the evolution of technology has expanded the relevance of copyright to the general public. Copyright has always been driven by technology, starting with the invention of the printing press. Prior to that, we didn't need copyright law, because copies were too hard to make. The printing press came along and made it easy to make many, many copies quickly. So, all of a sudden, we needed rules about who was allowed to copy what. Otherwise, any author's work could be reprinted by someone else, and printed up in volume. As new media and copying technologies came along, copyright adapted and expanded to cope with those as well.

If you think about it, today, everybody has the equivalent of a printing press, and they carry it in their pocket -- their digital device. They also have all this capacity to produce content -- sophisticated videos, music and other types of creative content that you once needed a lot of expensive, special equipment to create. Meanwhile, the internet offers a worldwide distribution network that we can tap into anytime we want. Knowing that, educators need to consider what basic copyright and media competencies are now relevant to their students' everyday lives.

**CML:** That is a question that truly needs to be asked on an ongoing basis, because new technologies mean that the answer is changing all the time.

**DS:** It definitely is not a question that can be answered at just one point in time. Today, students engage in a lot of project-based learning. New forms of education ask kids to build their own projects. That puts children in the shoes of creators. They often interact with, edit and draw on other's content to create their own. That makes copyright and media literacy education incredibly relevant now. What it all comes down to is, having at least some basic understanding of copyright and media literacy is becoming more of a basic life skill.

**CML:** Do you see **educational standards** changing to meet this need?

**DS:** Overall understanding of copyright is still pretty low. But, some educational standards are calling for it. The California Model School Library Standards for California Public Schools demands that copyright concepts, including fair use, be taught to students. The International Society for Technology and Education calls for abiding by copyright and fair use. The American Association of School Librarians has standards calling for it, too. But what can teachers use to meet these standards? That's part of what drove us to put together curriculum materials on copyright.

**CML:** There are a number of **curriculums on copyright** available. How would you describe yours? What were your team's priorities in building it?

**DS:** It was very important to us that our curriculum not be viewed as propaganda for any particular industry or viewpoint. We weren't interested in getting into big, highly charged debates over whether or how copyright law should change. Our goal was to paint an accurate picture of the basic framework of copyright. It wasn't going to be a law school course, which often focuses on tricky edge cases or controversial flashpoints. Our priority was offering what average people ought to understand in today's information environment, as well as some of the "whys" to help copyright and fair use concepts make sense.

To avoid a slant in any particular direction, we solicited input from stakeholders on different sides of the debate on copyright. That included people in the copyright industry, as well as academics who have more of a consumer or user-oriented focus. We covered copyright protections, but also limitations and exceptions to copyright. Copyright law is a powerful set of rules to protect creators, but it also has some important and flexible exceptions. It was a big priority to make that understood, because we didn't want to end up teaching copyright as just a bunch of "thou-shall-nots" and finger-wagging – a set of negative rules that restrict kids' creative freedom. So, our curriculum covers not just what copyright prohibits, but also what copyright allows. We wanted to give kids some practical and positive information about what copyright lets them do. Because today, young people are not just consumers of creative material, they are also creators, and copyright protects their work. So, our curriculum aims to get kids not only to understand copyright, but also to internalize and personalize the rationale for it. That entails building students' understanding that copyright laws might prevent them from doing some things, but it also may well empower them.

In organizing the curriculum, we considered what kinds of specific activities kids get involved in that raise copyright issues, and then developed it around those. We put those activities into three buckets. Number one is acquisition: As consumers, kids acquire content on the internet, -- a song, a TV show. So, we wanted to teach them to stop and think critically about how they're getting content, if they're getting it for free, and why might that be? Did the author choose to make this available for free? That happens a lot. Is it supported by advertising? Is the author just choosing to give it away? Or, is the website offering it actually infringing on the authors' rights?

The second bucket is sharing. When kids get excited about media – a song or a show they like – they naturally want to share it with their friends. We review the ways to do that legitimately, and the ways that could be copyright infringement.

The third bucket addresses when kids actually want to incorporate someone else's work into their own creations. This is where students really need to get familiar with key concepts such as fair use, creative commons and public domain. The curriculum suggests activities to give students some practice in those concepts. For example, kids are asked to create a presentation and include something from creative commons and something from the public domain.

**CML:** Your curriculum really drives kids to use critical thinking skills, which is another way that copyright education crosses paths with media literacy education.

**DS:** Yes, our materials definitely encourage young people to stop and think a bit about where they're getting and how they're using other people's content, as well as whether their use of it is legal and fair. One example is evaluating sources -- figuring out if you're getting your material from a fly-by-night site that seems unlikely to actually have any kind of agreement with the creators, or whether you're on a site that is a legitimate distributor. It takes critical thinking to figure that out. Another huge example is fair use. Fair use is complicated. It's something that is determined on a case-by-case basis. There is no way to do a fair use analysis without engaging critical thinking.

**CML:** One of the questions that media literacy education asks students to consider is "what is the purpose of the message?" That really is something that needs to be considered whether you are a content consumer or a content producer. Fair use has a lot to do with **asking that basic question about purpose**.

**DS:** Fair use determination requires asking: What is my purpose for using this? Is my purpose commercial or non-commercial? Am I taking this other person's content and remixing and transforming it in a way that truly creates something different? Or, am I just redistributing an original piece that is someone else's? Those are all important questions, and the answers are not always black and white. But, it seems to me that if kids get some grounding in the topic, they'll at least be asking the right questions and will find the right answers more often than not.

**CML:** Yes, copyright is an imperfect science.

**DS:** That brings up another challenge – that copyright is a complicated, technical area where answers often aren't clear cut. Teachers themselves don't often feel they have a full grasp of it, so they may be anxious about teaching it. So, we put together a professional development video that teachers can use to give themselves a little background in the subject. Like the rest of our materials, it's available through our website at [copyrightandcreativity.org](http://copyrightandcreativity.org). The curriculum itself also includes short videos for teachers to show in class to walk students through some of the more complicated parts

of copyright law, like the four-factor balancing test to evaluate whether something falls under fair use.

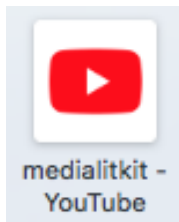
**CML:** Copyright laws have changed over the years as technology has advanced, and they continue to do so. How does law play a role, and is there anything we can do on the legal front to prepare for copyright issues stemming from technologies that are currently in development, such as augmented reality and machine learning?

**DS:** It's always hard to plan ahead for technology that hasn't yet arrived. Typically, the technology changes first, and then there are debates about whether and how the law should respond. Sometimes Congress steps in and makes changes to the actual statutes. More often, it's courts that are called upon to address tricky questions about how existing law applies to new technologies once there is a dispute over how to apply something like fair use to a new technology that's burst upon the scene.

Those questions can be hard, and hard-fought. But the underlying principles behind copyright and fair use, and the core purpose of promoting creativity, still apply. If we can increase understanding of those basics, it creates a better foundation for addressing the tough questions that inevitably come up.

**CML:** So, we always have to be prepared for some lag in the law as new copyright issues arise, but having that basic foundation through curriculums like yours would help the process go more smoothly. How do you think the media literacy community can help you bring a foundational understanding of copyright law to more people?

**DS:** We need media and information literacy to be a significant component of the educational experience. It should include a full suite of subjects that kids need to function in an online world, and copyright law is one of those subjects. Media literacy and copyright both put a focus on questions of authorship. Kids need to recognize that media doesn't just appear online – someone authored it and posted it. So they need to consider things like the author's purpose, viewpoint and rights under copyright. If we want to educate kids to be good digital citizens, these topics should be included in educational programs around the country.



**CONSORTIUM**  
for **MEDIA LITERACY**

*Uniting for Development*

### Student Work Showcased by CML

CML is showcasing student-made projects related to media literacy. We are pleased to bring you *Fake Off* by Jason Handin with comedian Jeremy Briggs. This series of five episodes, made by Jason for his peers, takes an entertaining news trivia approach to the Five Key Questions and Core Concepts of media literacy. The videos are Handin's final project for his master's degree in mass communications/journalism from California State University, Northridge. Enjoy all episodes on CML's [YouTube channel](#).

### Infographics!

Need a visual resource for explaining media literacy? We are creating a new infographics section on the CML web site. For now, find them [here](#).

### About Us...

The Consortium for Media Literacy addresses the role of global media through the advocacy, research and design of media literacy education for youth, educators and parents. The Consortium focuses on K-12 grade youth and their parents and communities. The research efforts include nutrition and health education, body image/sexuality, safety and responsibility in media by consumers and creators of products. The Consortium is building a body of research, interventions and communication that demonstrate scientifically that media literacy is an effective intervention strategy in addressing critical issues for youth.

<http://www.consortiumformedia literacy.org>

## Resources for Media Literacy

### Copyright and Media Literacy Resources

*Copyright Clarity: How Fair Use Supports Digital Learning* by Renee Hobbs (Corwin Press, 2010). Available on Amazon.

Code of Best Practices in Fair Use for Media Literacy Education, Media Education Lab - <https://mediaeducationlab.com/code-best-practices-fair-use-media-literacy-education>

Media Education Lab, University of Rhode Island - <https://mediaeducationlab.com>

Copyright and Creativity educator resources, managed by Internet Educational Foundation - <https://copyrightandcreativity.neted.org>

iKeepSafe educator resources on student privacy and technology - <https://ikeepsafe.org>



## MediaLit Moments

### Fair Share

It's a pretty solid guess that your students participated as consumers and producers of media during their summer break, and it's also likely that they shared materials without understanding copyright laws and permissions. Since we are all media producers these days, it's important to know the guidelines around sharing and re-mixing existing content. Understanding copyright and fair use go hand in hand with being media literate.

*Introduce copyright and fair use, and how it might affect the choices students make.*

**AHA!** There is more to sharing than clicking a button!

**Grades:** 6-9

**Materials:** Copyright video, large screen, smart phone

**Key Question #1:** Who created this message?

**Core Concept #1:** All media messages are constructed.

**Key Word #1:** Authorship

**Key Question #5:** Why is this message being sent?

**Core Concept #5:** Most media messages are organized to gain profit and/or power.

**Key Word #5:** Purpose

**Activity:** Open the conversation by asking your students if they know about copyright and the laws around respecting existing materials found online i.e. music, videos, photos, art, writing, or anything else created by someone else. Review the Key Questions, Core Concepts, and Key Words.

Show the video *Creativity, Copyright, and Fair Use for Ethical Digital Citizens* by iKeepSafe.org <https://drive.google.com/file/d/0B44ApZf7tqOVM3FDLWtDV2prbjQ/view>

After the video, bring out your own phone and play a popular song that your students will recognize – one you have legally downloaded. Ask these questions:

Who created this song? Who is the artist/**author**?

How do you think I got this song onto my phone? (paid for the download).

Now that I have paid for it, can I just give it to all of you because you're my friends? (no, they must also pay for it to protect the author's creative rights).

What if we want to use this song for a specific class project? For example, as background music in a video or slide show, can we? (yes, under Fair Use for education).

What if you later decide you want to use the same song in a video outside of school, can you? (no, the song is copyrighted, you would need to pay or get permission. Fair Use allows for educational/classroom purposes only. The **purpose** of how the material is used, is of the utmost importance).

If you created artwork or recorded a song, would you mind if other people used it on the internet? Would it depend on their purpose? What if their purpose was to make money off of it? Do you see how copyright laws protect the rights of artists, creators, and producers of media?

The Five Core Concepts and Five Key Questions of media literacy were developed as part of the Center for Media Literacy's MediaLit Kit™ and Questions/TIPS (Q/TIPS)™ framework. Used with permission, © 2002-2018, Center for Media Literacy.