

Finding (Legally Safe) Music and Videos for Presentations, Blogs and Podcasts

Infopeople 



Finding (Legally Safe) Music and Videos for Presentations, Blogs and Podcasts


Infopeople Webinar Series: **"Legal Update - Libraries in a 2.0 World and Beyond"**

Mary Minow - Presenter
Wednesday, June 17, 2009

Little Pieces Artist: Uncle Seth, obtained from the Podsafe Music Network
musicface.com/uncleseth/news.html music.podshow.com/

Legal Disclaimer

Legal information
Not legal advice!



Agenda

1. Overview and penalties 
2. Sounds and music – podsafe
3. Beyond podsafe sources
(I really want to use Prince's "Let's Go Crazy")
4. Video clips
5. Protecting your podcast

www.youtube.com/watch?v=N1KfJHFwIhQ

Finding (Legally Safe) Music and Videos for Presentations, Blogs and Podcasts

1. Copyright overview and penalties

Lawsuits – if you lose, you pay:

- © Damages, lost profits of copyright holder
- or
- © \$750 - \$30,000 per incident

Plus attorneys fees



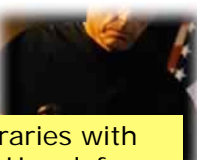
17 U.S.C. § 504

Civil penalties

Lawsuits – if you lose, you pay:

- © Damages, lost profits of copyright holder
- or
- © \$750 - \$

Plus attorneys fees




Nonprofit libraries with good faith Fair Use defense \$0 damages

17 U.S.C. § 504

Criminal penalties

- Don't break technological protection measures like CSS (Content Scrambling System)
- Narrow exception: film professors may make clips from DVDs



17 U.S.C. §1201 (a)(1)(A)

Finding (Legally Safe) Music and Videos for Presentations, Blogs and Podcasts

Copyright owner's rights

Reproduction (copy)

Distribution by sale, lending

Adaptation (derivative works)

Performance in public

Display in public

Digital audio performance of sound recordings 17 U.S.C. § 106



Copyright owner's rights

Reproduction (copy)

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17 U.S.C. § 106

Public performance rights

right to perform work publicly



e.g. stream online
(permanent digital download is not public performance)


Not "Happy Birthday" at private party

www.ascap.com/licensing/educational.pdf


Finding (Legally Safe) Music and Videos for Presentations, Blogs and Podcasts

Music – two layers of copyright

MUSICAL WORK
(lyrics, sheet music)
owned by composer – often transferred to music publisher



SOUND RECORDING
(CD, tape, digital file)
owned by performer – often transferred to record label



New distribution schemes – artists more likely to own copyright

Video – can have multiple copyright layers

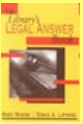
Underlying work
(music, poetry, novel etc.)
may have several copyright owners



Video/film itself
usually owned by studio



Images displayed with podcast



- “Electronic print reproduction license” for artwork, slide images etc.
- Some thumbnails of cover art should be cleared.

Finding (Legally Safe) Music and Videos for Presentations, Blogs and Podcasts

**Public Domain
Use Reputable Sources**

Enthusiastic websites may proclaim public domain erroneously





copyrightfree.blogspot.com

Sect. 110 Classroom Exception
17 U.S.C. 110(1)

Allows performance of copyrighted works

Face to Face
Instructors and students may show films etc. in classroom "or similar place devoted to instruction"

Use legitimate (not pirated) copy



```

    graph TD
      A{Public Domain} --> B{Sec. 110 Classroom}
      B --> C{Fair Use}
      C --> D[Get Permission]
    
```



Sect. 110 Distance Classroom
17 U.S.C. 110(2)

TEACH ACT
amounts comparable to face-to-face classroom

Nondramatic literary or musical works
Readings from novels, poetry and textbooks
Pop music, symphonies

Dramatic works e.g. feature films
Reasonable and limited portions

Must Meet Many Requirements

```

    graph TD
      A{Public Domain} --> B{Sec. 110 Classroom}
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```

Technology, Education and Copyright Harmonization Act of 2002

Finding (Legally Safe) Music and Videos for Presentations, Blogs and Podcasts


Permission

Creative Commons Licenses
require attribution



use manner specified by licensor
keep any copyright notices intact
link back

**Creative Commons Licenses
different types**

- *Noncommercial* – you cannot make money (including advertising if the work is a primary draw to podcast).
- *NoDerivatives* – you cannot adapt e.g. translation, dramatization, mash-up. May use in collective work.
- *ShareAlike* –you must add similar license to your podcast.
 - You **read a poem aloud** that has a creative commons license. You must add a creative commons license to your podcast.

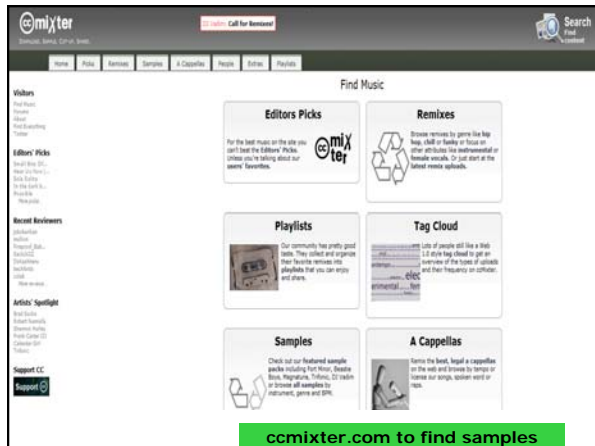


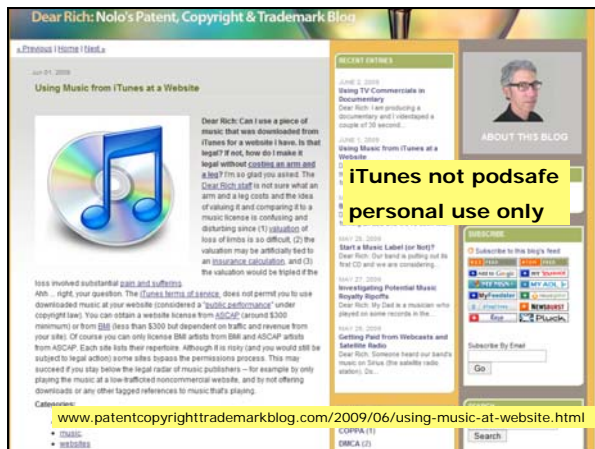
**Creative Commons
Sampling Licenses – Mash ups**

-  ■ *Sampling Plus* – you can
 - perform, display, distribute whole work for noncommercial purposes
 - mash-up, creatively transform for any purpose
-  ■ *Non-Commercial Sampling Plus*
 - Same but only for noncommercial purposes

creativecommons.org/licenses/sampling+/1.0/
creativecommons.org/licenses/nc-sampling+/1.0/

Finding (Legally Safe) Music and Videos for Presentations, Blogs and Podcasts






3. Beyond podsafte sources

- Fair use
- Clear Permissions
- Record your own

```

graph TD
    A[Public Domain] --> B[Specific Exemptions]
    B --> C[Fair Use]
    C --> D[Get Permission]
    
```


Finding (Legally Safe) Music and Videos for Presentations, Blogs and Podcasts



Fair Use

Purpose – favors nonprofit, educational use
Nature – creative works favors copyright owner
Amount – if entire work, favors owner
Market – often harms market

... a hard sell



MYTH: 10 second rule

Multimedia guidelines for students and educators

1996 guidelines
not law

Has numbers e.g.
30 seconds music
3 minutes video

IDENTIFY THE POTENTIAL COPYRIGHT RESTRICTION

The copyright holder has the exclusive right to reproduce and distribute copies of their work in any form or by any means, including electronic, mechanical, photocopying, recording, and by any information storage and retrieval system.

1. Fair Use

Copyright law includes an exception called "fair use" that permits limited copying of copyrighted material without the copyright owner's permission. This exception is based on a balancing test that weighs four factors: the purpose and character of the copying, the nature of the copyrighted work, the amount and substantiality of the portion copied, and the effect of the copying on the market for the original work.

2. Fair Use Guidelines

The following guidelines are based on the fair use doctrine and are intended to provide a practical, non-exhaustive list of examples of copying that may be considered fair use. These guidelines are not a substitute for the legal definition of fair use, and they are subject to change as the law evolves.

3. Fair Use Guidelines

For the purpose of these guidelines, the following definitions apply: "copying" means the reproduction of a work in any form or by any means, including electronic, mechanical, photocopying, recording, and by any information storage and retrieval system. "Fair use" means the copying of a work for one or more of the purposes listed below, provided that the copying is done in a way that does not harm the market for the original work.

4. Fair Use Guidelines

For the purpose of these guidelines, the following definitions apply: "copying" means the reproduction of a work in any form or by any means, including electronic, mechanical, photocopying, recording, and by any information storage and retrieval system. "Fair use" means the copying of a work for one or more of the purposes listed below, provided that the copying is done in a way that does not harm the market for the original work.

www.utsystem.edu/OGC/IntellectualProperty/ccmcguid.htm




New video explains Best Practices in Fair Use

socialmedialawstudent.com/lead-article/best-practices-in-fair-use-for-online-video/

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Fair Use? Sometimes!




- Parody
- Commentary
- Trigger discussion
- Example
- Incidental use
- Personal reportage
- Pastiche or collage

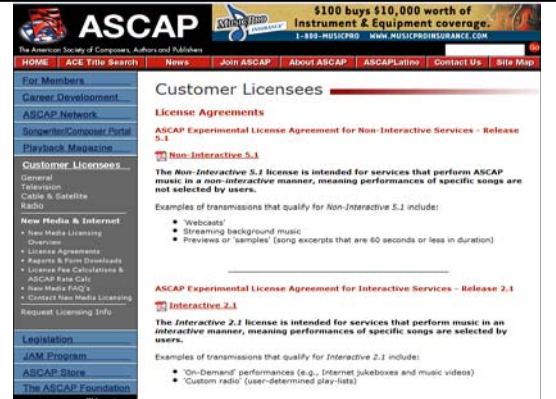
www.centerforsocialmedia.org/resources/publications/recut_reframe_recycle/

How to clear permissions

MUSICAL COMPOSITION
ascap.com
bmi.com
sesac.com

SOUND RECORDING
Soundexchange.com
Allmusic.com
CD



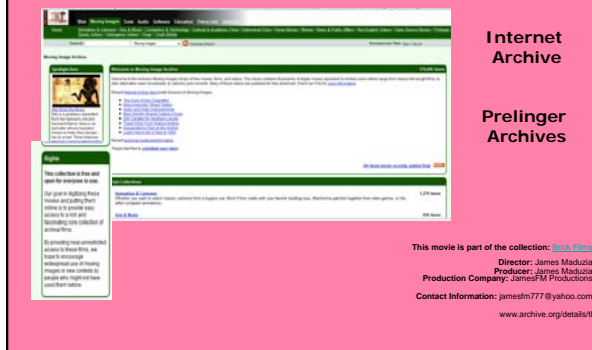
www.ascap.com/weblicense/reports/

Finding (Legally Safe) Music and Videos for Presentations, Blogs and Podcasts

Write and record your own



4. Video and film clips



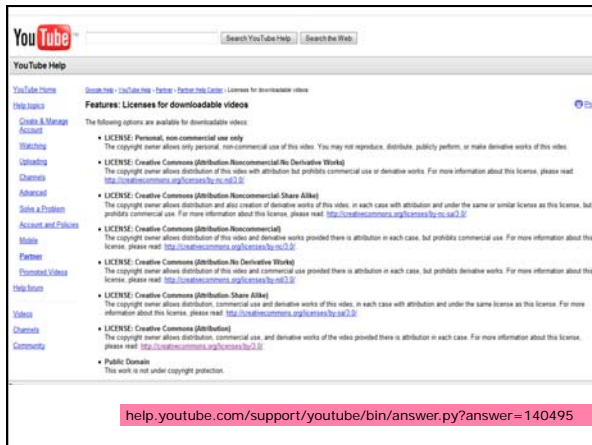
Handy Firefox Drop Down



Finding (Legally Safe) Music and Videos for Presentations, Blogs and Podcasts

Can I use a YouTube clip?

- Mostly no, but new option for content creators to use Creative Commons licenses
- Also testing options for owners to allow free or fee [Google Checkout](#).
- Free downloads of lectures from Stanford, Duke, and [UC Berkeley](#), among others.



5. Protecting your podcast

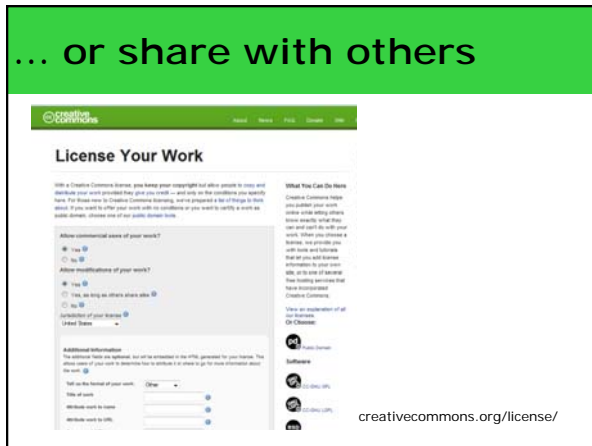
Not needed to get copyright but required to be able to sue \$\$\$\$

Register at copyright.gov

17 U.S.C. § 504

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... or share with others



More information

