Copyright & Fair Use Guidelines

Intellectual Property Guidelines

General Information About These Guidelines

- The U.S. Copyright Act provides that only the copyright holder has the right to reproduce, distribute, display, perform, or make derivatives of a copyrighted work.
- An exception to this rule is called "fair use." Four factors courts use to decide whether an unauthorized use of a copyrighted work is "fair use" (and therefore permitted even though the copyright owner has not granted permission) are: (1) **the purpose and character of the use**, *i.e.*, if the work is used only for educational purposes, it is *more* likely to be considered fair use, and if the use of the work is transformative (not mere copying), it is *more* likely to be considered fair use; (2) **the nature of the copyrighted work itself**, *i.e.*, if the work is published, use of that work is *more* likely to be deemed fair use because the author has had the opportunity to control its first publication, also if the work is primarily factual in nature, then use of it is *more* likely to be deemed fair use; (3) **the amount of the copyrighted work used**, *i.e.*, if a small amount of the copyrighted work is copied, then it is *more* likely to be considered fair use; and (4) **whether the use of the copyrighted work has a significant effect on the market for the work**, *i.e.*, if the use would not replace sales of the work that would otherwise occur, it is *more* likely to be deemed fair use.
- Educational use is not *automatically* fair use, so you should follow the guidelines below to ensure your use does not violate a copyright owner's rights.
- Always ask yourself whether something that is not your own could be copyright protected – if it is music, a movie clip, or a photo created by someone else, it could be.
- Any materials you use in your presentation must have been legitimately acquired, meaning that whatever source the materials are taken from cannot themselves have been engaging in copyright infringement (for instance, use of a video that was clearly videotaped on a phone in a movie theater and then posted on the internet would not be advisable, as that taping in the movie theater and posting of the video on the internet likely violated the rights of the owner(s) of the copyright to the movie).
- Works published before the specific date of January 1, 1923, are in the public domain, so you can use these works freely without permission.
- The following rules apply only to use of materials in your BPA presentation, and not for any other purpose.

No matter what, always credit all of your sources. This is important to avoid any potential plagiarism concerns. Where the information is available, include the copyright notice, for instance: "Excerpt from ___ © 2016 XYZ Publishing Co."

Disclaimer

These guidelines are intended to convey general information about copyright and trademark law. They should not be relied upon as legal advice. BPA's services are educational in nature, and neither it nor any of its affiliates or staff are a lawyer or law firm. BPA does not represent or advise clients in any matter and are not bound by the professional responsibilities and duties of a legal practitioner. These guidelines are not an offer to represent you, nor are they intended to create an attorney-client relationship. These guidelines are intended, but are not promised or guaranteed, to be correct, complete and up-to-date. However, they may not reflect all recent legal developments and may not apply to the specific circumstances of individual situations.

Trademark Guidelines
• A trademark may consist of a word, phrase, logo, symbol, design, sound, or combination of any of those listed (such as Google®, the Nike® Swoosh, the shape of the Coca-Cola® bottle, and sports logos). A trademark owner can register a trademark only in particular categories of goods or services for which it is using the mark. • Trademarks are not a significant concern in the context of your BPA competition submission because infringement typically occurs when a trademark is used in connection with the sale of products or services, whereas here the use would be as a reference to describe the products or services. • If you are concerned about the use of a trademark, you could refer to the product or service without including the logo. • Be sure to use the registration symbol ("®") where appropriate.

Copyright Guidelines - Specific Types of Material	
What Is Covered	**What You Can Use**
Printed Materials	
• Poems • Stories • Essays • Articles • Picture, chart or illustration in a book • Books	• You may incorporate text into your project as follows *without* seeking permission of the copyright owner (but you must always *include a citation to your source*). If you use *more* content than is noted here, you will need to seek permission of the copyright holder. o 10% of work or 1,000 words, whichever is less o Articles, stories, or essays less than 2,500 words o Poem of less than 250 words in its entirety o Excerpt of 250 words from a poem of greater than 250 words o One chart, picture, diagram, graph, cartoon or picture per book or per periodical issue o Up to two pages from an illustrated work less than 2,500 words (such as a children's book) • "Consumables," such as workbooks or standardized tests, may *not* be copied.

What Is Covered	What You Can Use
Illustrations and Photographs	
• Photograph (*e.g.*, from Google Images) • Illustration • Collections of photographs • Collections of illustrations	• Single images (such as those on Google® Images) may be used in their entirety *without* seeking permission, but you will need to seek permission to use *more* than five images by a single artist or photographer. Regardless, you must *always credit your source, i.e.,* the website from which the image was taken. This likely does not mean Google® (if you ran a Google Image search), but rather the website where the picture was posted. • From a collection, not more than 15 images or 10 percent (whichever is *less*) may be used *without* seeking permission (though you must *credit your source*). • If you are using an image you found on Pinterest® or Instagram®, try to determine who is the owner of the image and, if necessary according to the rules set forth above, seek that person's permission to use it. Do not assume whoever posted the image is the owner. (Although Pinterest's Terms of Service do allow you to share/use photos that are posted by others, that right is limited to use on Pinterest.) • If you are using an image you found on Twitter® or Facebook®, determine if the person who posted it is the owner of the image. If so, you may use it *without* seeking permission. This is because Twitter® and Facebook®'s Terms of Service, unlike Pinterest®'s and Instagram®'s, allow you to share photos that are posted by others. If the person who posted it does not own the image, however, you should determine who owns the rights to the image and seek permission if necessary under the rules described above. • Again, regardless of whether permission to use an image is necessary, *always cite your source*.
Video or "Motion" Media	
• DVDs • Movie or TV show clips from the Internet	• The material must be legitimately acquired (a legal copy, not illegally downloaded, bootleg or home recording). • You may use 10% or three minutes (whichever is *less*) of "motion media" *without* seeking permission (though, as always, *cite your source*). • Videos from websites ending in .gov are public domain and therefore may be used *without* seeking permission (though *cite your source*). • If you are creating your own video from clips of other copyrighted videos, the video must be "transformative," i.e., a new use of the original video such as a commentary on or criticism of it, as opposed to simply a reuse of the original video. Use only as much of each copyrighted video as necessary. • If the video is from YouTube®, Facebook®, Periscope®, or another site where users generate content, be especially careful to determine if it was posted by the creator. If so, you can use up to 10% or three minutes of it (whichever is *less*) *without* seeking permission, but *be sure to cite your source*. If it is a re-posting by a third party, determine whether the original is available from another source. Do not include a video you have reason to believe infringes a copyright in your presentation (a "bootleg" video recording, for example).

What Is Covered	What You Can Use
Music	
• CDs/Tapes/Records • Audio from the Internet • Electronic music files such as MP3s • Sheet Music	• Up to 10%, but no more than 30 seconds (whichever is *less*), of the sheet music or recording from an individual musical work may be used *without* seeking permission (but *always credit your source*). If you use an entire song, you likely need to seek permission for the use. • There is a separate copyright for the musical composition (i.e., sheet music of a song) and the recording of a song. In other words, even if you only include portions of sheet music or change the lyrics of a song, you should adhere to these guidelines. The copyright to the sheet music of a song may be owned by a different person than the owner of the copyright for a particular recording of a song.
Computer Software	

• Software (purchased or licensed)	• If you are using a framework that helps you build your software from scratch (such as Game Engine), you likely do not need to worry about copyright concerns unless the framework permits you to import portions of someone else's software.
	• Software is copyrightable, so if your presentation uses someone else's software, you need to be protected either by fair use or the terms of a license the copyright holder might have granted to a third party.
	  ○ Fair use will likely apply if you use only small portions of the software and the end result is transformative.
	  ○ You should also check to see if the copyright owner of the software has licensed it such that third parties like you are permitted to use it.
	  ○ If in doubt, do not include pre-existing software in your own software competition entry.

Data Sets (Such As Spreadsheet Entries)	
• Spreadsheet (e.g., Excel document) • Tables	• You may use up to 10% or 2500 fields or cell entries, whichever is *less*, without seeking permission. Always *credit your source*, however.