

# ©opyright

A guide for graduate students  
at the University of Windsor

# Intellectual Property Guidelines

## Office of Research Services

- Research funding relationships & obligations, commercialization, industry relationships, contracts; patents, trademarks

## University & Senate Policies

- Academic considerations with respect to authorship, co-authorship, collaborative research, plagiarism, conflict of interest

## Office of Graduate Studies

- Copyright considerations with respect to graduate theses, dissertations.

# What is Copyright?

- Copyright is part of the larger body of law called intellectual property
- The Canadian Copyright Act grants copyright owners the sole and exclusive right to reproduce, perform or publish a work and an ability to benefit, monetarily and otherwise, from the exploitation of their work.
- Copyright subsists only in works that are “expressed in some material form, capable of identification and having a more or less permanent endurance.” Copyright protects the “form” in which an idea is expressed and not the ideas contained within that form.

# When Does Copyright Apply?

- Copyright protection automatically exists when a work is created so long as it meets three criteria:

## **Originality**

The work must be more than a copy of an existing work.

e.g. Changing the font of the text is not original

## **Fixation**

Copyright applies to works that are “expressed in some material form, capable of identification and having a more or less permanent endurance.”

## **Place of Publication**

The author of any published or unpublished work must be a citizen or resident of Canada or any Berne Convention country, any country adhering to any level of the Universal Copyright Convention, and any country member of the World Trade Organization.



# What copyright covers

Literary, artistic, dramatic and musical works; Establishes economic and moral rights; Enables creators or rights holders to control the publication and reproduction of their works; to receive remuneration; and protect the integrity of their works

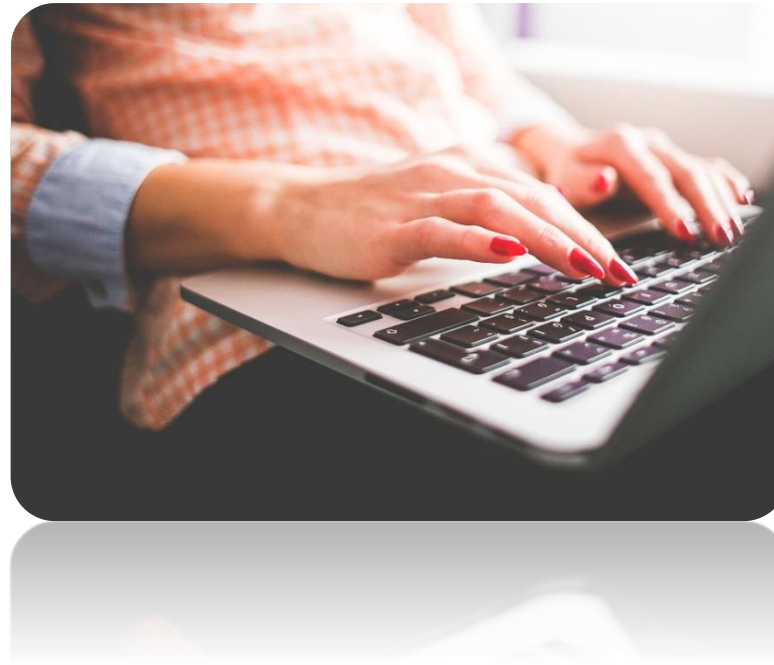
Books	Graphs
Scholarly Articles	Photographs
Poetry	Paintings
Plays	Software
Motion Pictures	Sculpture
Songs	Choreography
Webpages	Theses & Dissertations

# Copyright considerations for graduate students

## Copyright Users



## Copyright Holders



# 3 fundamental copyright considerations for graduate students

1. How to exercise control over your own copyright and how your work is used
2. How to respect the copyright of others
3. How to make use of third-party materials in your own work.



# 1. Author Rights

SPARC is an organization that provides information and resources regarding author rights. Remember that copyright applies to your works and impacts how others can access and benefit from your work in the future.

The logo for SPARC, featuring the word "SPARC" in white capital letters followed by a red asterisk-like symbol, all on a black rectangular background.

<https://sparcopen.org/our-work/author-rights/>

<http://www.youtube.com/watch?v=E8ysSrcGx0A>



## 2. Respecting Copyright

Avoid plagiarism through complete and accurate attribution

The action or practice of taking someone else's work, idea, etc., and passing it off as one's own; literary theft.

(Oxford English Dictionary, 2nd ed.)

# 3. How to make use of third-party materials in your own work

## **Insubstantial Portions**

Copying an insubstantial amount of a work does not require permission. Whether a portion is substantial is assessed quantitatively and qualitatively. If that part is distinctive, valuable or an essential part of the work, the copying may infringe copyright.

Cases of insubstantial copying include reproducing selected sentences, paragraphs, verses or choruses from an article, book, poem or song.

### Consider

- Am I using only what need in order to serve my purpose or make the argument or give context?
- Can I make the point using something that I have created?
- Will the creator's copyrights be adversely affected by my use of this portion of the work?

# 3. How to make use of third-party materials in your own work

## **Public Domain Works**

- The duration of Copyright in Canada is the life of the author + 50 years. Works whose copyright has expired enter the public domain. These works may be freely used without obtaining permission.
- However, significant alterations in reproductions of public domain work may themselves be copyrighted. It is important to check which version or edition of a work you are using.

# 3. How to make use of third-party materials in your own work

- Many copyright holders & publishers now choose to apply a [Creative Commons \(CC\) License](#) to their work to allow more liberal reuse or sharing of that work. Creative Commons
- Works under a Creative Commons (CC) License may be used freely without permission so long as the conditions of the license are met.
- CC-licensed content is still protected by copyright. However, its use is subject to the terms of the CC license that placed on it. It is worth reviewing CC licenses to see what uses they do and do not permit.





## LICENSES

MOST FREE



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LEAST FREE



University  
of Windsor

# Fair Dealing

## Author's Declaration of Originality (University of Windsor)

“ ... Furthermore, to the extent that I have included copyrighted material ***that surpasses the bounds of fair dealing*** within the meaning of the Copyright Act, I certify that I have obtained a written permission from the copyright owner(s) to include such materials in my thesis .... ”

# Fair Dealing

## CCH v. LSUC (2004)

“ one of the strongest pro user rights...pro-decisions from any high court in the world”

“...a genuine revolution in the state of Canadian copyright law”

1. Rimmer, M. “Canadian Rhapsody: Copyright Law and Research Libraries” Australian Academic and Research Libraries Sept. 2004: 193-213
2. Geist, M. “Low-Tech Case has High-Tech Impact” Law Bytes, Toronto Star, 22 March 2004



# Fair Dealing

- The [Copyright Act](#) permits copying from protected works for the purposes of fair dealing.
- In Canada, the Supreme Court has stated that deciding whether a particular act of copying is fair requires the user to consider several factors.



# Fair Dealing

Step 1: is the **purpose** of the dealing included amongst those laid out by the copyright act?

research  
private study  
education  
satire

parody  
criticism  
review  
news reporting

# Fair Dealing

## Step 2: Is the dealing fair?

### Purpose of the dealing

Commercial uses may be less fair than non-commercial use.

### Character of the dealing

A single copy is more fair than many copies. Digital Distribution to a limited audience fairer than the open internet.

### Amount of the dealing

The quantitative amount as well as the significance of the copying should be considered. Copying a whole play from an anthology may be unfair even though it is a small portion of the total work.

### Nature of the work

Copying unpublished works may be more fair than published works

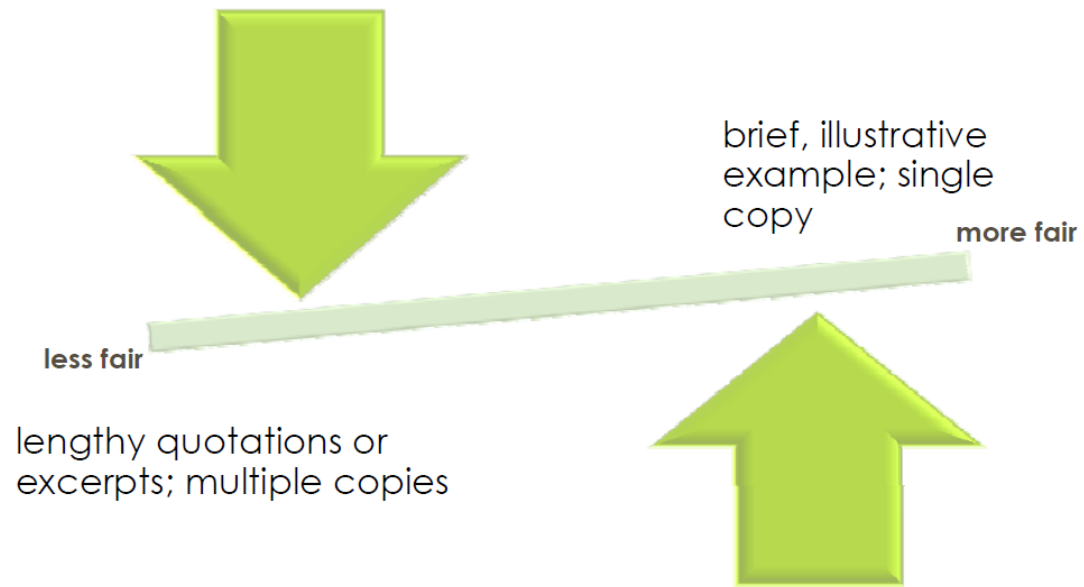
### Available alternatives

Are there alternatives that would substitute for using a copyrighted work?

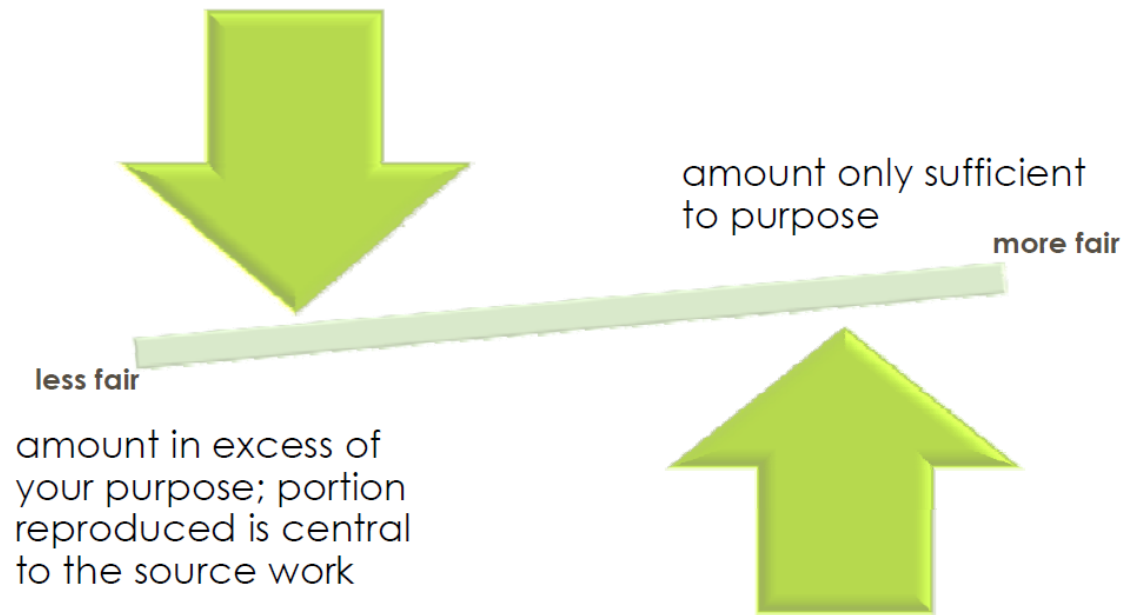
### Effect of the dealing on the work

Would the copy compete with the marketplace for the original work?

## 2: character of the dealing

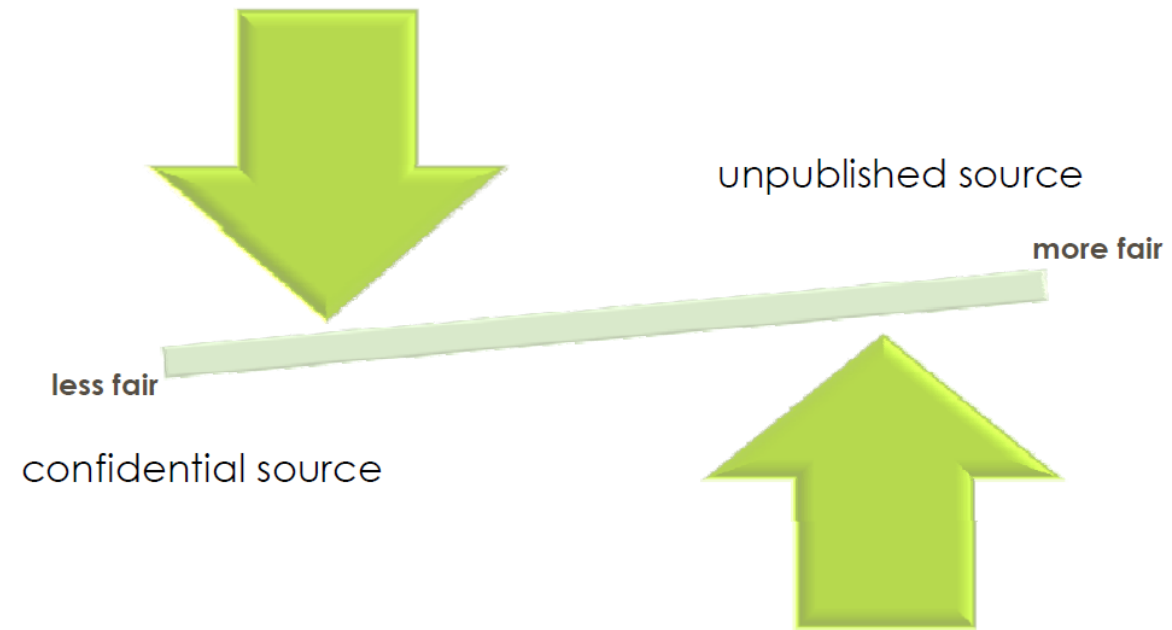


### 3: amount of the dealing

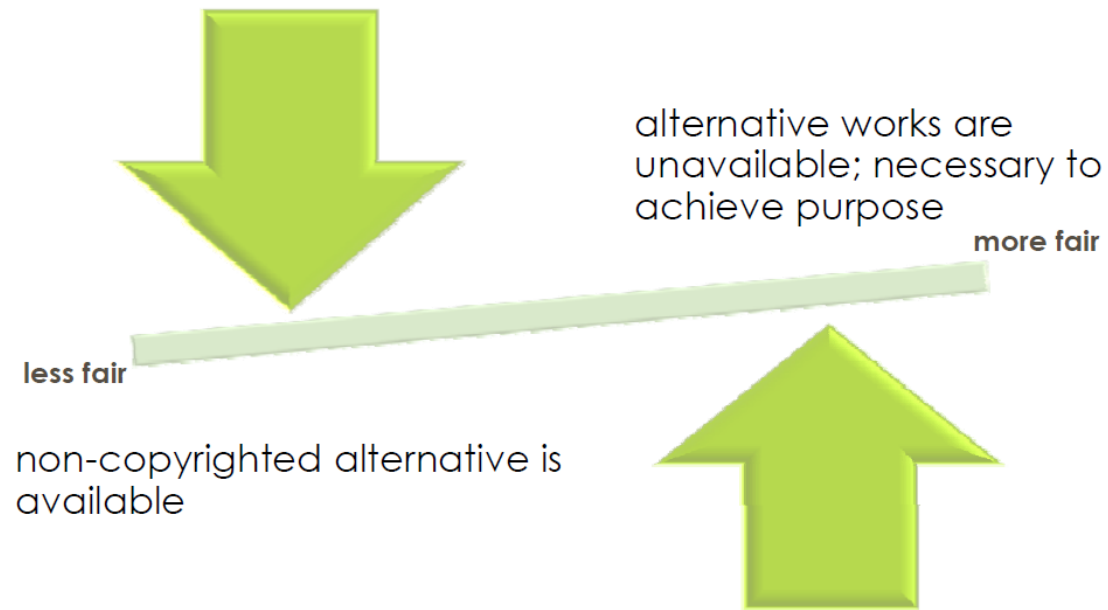




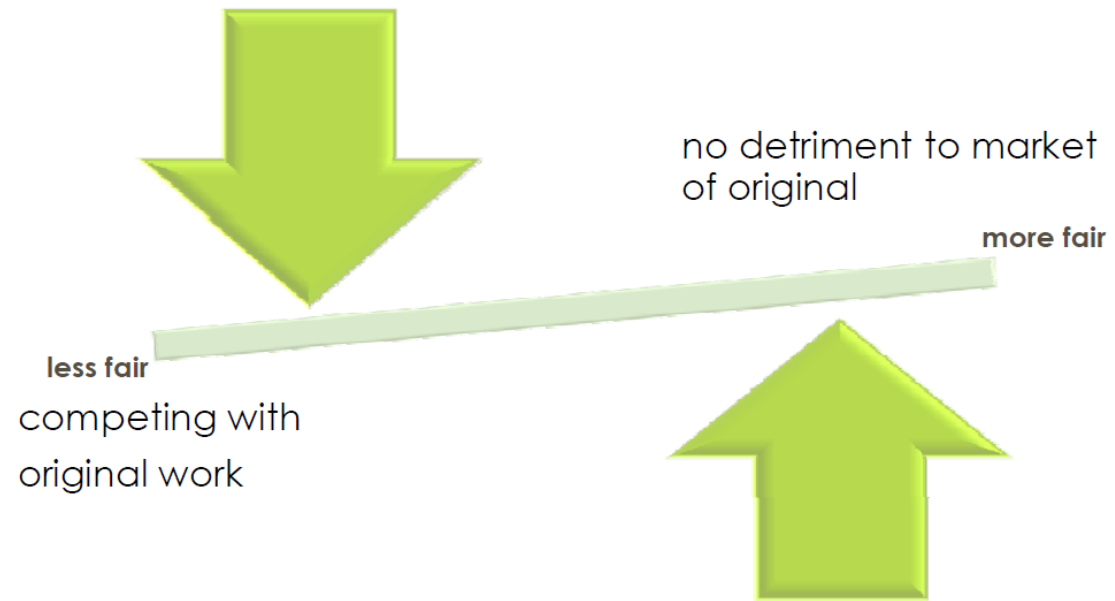
## 4: nature of the work



## 5: alternatives to the dealing



## 6: effect on the work



# Fairness: in Summary

- If you are using copyrighted materials in a thesis, dissertation, or other publication these works are generally available to a wide audience.
- Theses and dissertations are available in Scholarship at UWindsor and the ProQuest ETD collection.
- Journal articles are broadly distributed by the publisher.
- As a result, the Character of the use of copyrighted materials in your work may tend towards unfairness.



# Fairness: in Summary

- Use it for one of the purposes in the Act
- Limit the amount copied or quoted from a work to only what is necessary to achieve your illustrative purpose
- Don't use the work in a way that would create marketplace competition for the original work
- Don't distribute whole copies of the work
- Choose available alternative sources if they can accomplish the same purpose

# Seeking Permission

If you are using copyrighted material that is a substantial portion, not in the public domain, and not available under a license that permits reuse (Creative Commons) then you should seek permission. This may include but is not limited to:

Illustrations	Figures
Tables	Survey Instruments
Images	Audio files
Video	Substantial reproductions of content
Software	Scores

# Seeking Permission

“Students should ensure that that the use of copyrighted material from other sources in their theses meets the requirements of the Copyright Act. Some written permissions from copyright holder(s) may be required.” ([Thesis Canada](#)).

# Seeking Permission

- [Rightslink](#) is a tool that easily allows you to request permission for re-publication. In cases where they cannot give permission, they also often list the contact information for the rightsholder.
- Many publisher websites will include information about how to request permission (eg. [Oxford Journals](#)). You can also look up individual publisher policies on the [SHERPA RoMEO](#) website.
- Proquest have put together a guide that includes [a sample permissions letter](#) that you can use and modify for requesting permission.

Thanks to [Queens University](#)





# Seeking Permission

## **Points to Remember when requesting permission**

- Indicate that you are a graduate student writing a thesis or dissertation to complete your degree requirements at the University of Windsor
- Your thesis will be available in Scholarship at UWindsor institutional repository and ProQuest ETD collection upon publication
- Give yourself enough time to obtain permission and indicate the response date you need
- Keep copies of any correspondence and notices and emails

# Questions?

Questions can be sent to [copyright@uwindsor.ca](mailto:copyright@uwindsor.ca)

You can also visit <http://ledgy.uwindsor.ca/copyright>