

You Gotta Fight for Your (Copy)right!: Understanding Copyright and Fair Use

OVERVIEW

ESSENTIAL QUESTION

What is a copyright and why is it important to the music industry?

OVERVIEW

In this lesson, students will explore the concept of copyright and its impact on the music industry. Students will engage with real-world examples of famous copyright cases, learn the basics of intellectual property and fair use, and evaluate various real-life scenarios to apply their knowledge.



Copyright Office. Washington D.C, ca. 1920. Photograph. <https://www.loc.gov/item/2005694708/>.

According to the U.S. Copyright Office, a Copyright “is a type of intellectual property that protects original works of authorship as soon as an author fixes the work in a tangible form of expression.” In brief, copyright exists to protect an author’s creation from being stolen or unjustly profited from, and it covers a wide variety of materials, from paintings to blogs to computer programs.

Copyright law is extremely important, as it allows inventors, writers, musicians, and artists a legal right to benefit from the fruits of their labor. In doing so, copyright helps inspire people to create, as they have assurance that their work is protected.

In practice, however, navigating copyright law is complex. Culture evolves, one idea spurs the next, and it is often difficult to establish the boundary between where inspiration ends and theft (or copyright violation) occurs.

Music provides an excellent example of the complexities of copyright. How can one determine if a song was used as inspiration or if it was outright stolen? How much variation need occur? And what determines a song’s copyright to begin with? Is it the chords? The rhythm? The style of playing the instrument? Some combination of these musical elements?

There is no definitive answer to these questions, and often they are determined not by the Copyright Office, but between lawyers in court on a case-by-case basis.

This lesson allows students to role-play judges in such courts. After understanding the basics of copyright, students are asked to adjudicate real-life legal cases involving copyright claims. By the end of the lesson, students will have a deeper appreciation of

the importance of protecting creative works and the legal tools available to artists and musicians.

OBJECTIVES

Upon completion of this lesson, students will:

1. KNOW (KNOWLEDGE):

- The definition of copyright and intellectual property
- What types of works can be copyrighted
- The meaning of fair use and examples of it
- Historical examples of copyright violations in music and other media

2. MASTERY OBJECTIVE:

- Students will be able to analyze real-world examples to determine whether a use of music constitutes fair use or a copyright violation and explain how artists can protect their creative works by registering copyrights.

ACTIVITIES

MATERIALS REQUIRED

- Classroom Access to YouTube
- Sticky notes (approximately 40)

PREPARATION

1. Print **Station Activity - Copyright Relay Case Cards**. Create six stations around the classroom and place one page at each station. In addition, have a device at each 4 stations, containing:
 - **Station 1:** Clip 1, Comparing Robin Thicke's "Blurred Lines" with Marvin Gaye's "Got to Give it Up"
 - **Station 2:** Image 1, Shepard Fairey and the Obama "Hope" Poster
 - **Station 3:** Image 2, Two Examples from Richard Prince's Instagram Series
 - **Station 4:** (not needed)
 - **Station 5:** (not needed)
 - **Station 6:** Clip 2, Comparing The Verve's "Bitter Sweet Symphony" with The Rolling Stone's "The Last Time"



MOTIVATIONAL ACTIVITY

1. Ask students:

- How would you feel if you found out something you created was being used by someone else who claimed it was their own? What would you try to do about it?

2. Inform students that in 2013, the estate of Marvin Gaye claimed musicians Robin Thicke and Pharrell Williams stole the Marvin Gaye song “Got to Give it Up” for their hit “Blurred Lines.” Play **Clip 1, Comparing Robin Thicke’s “Blurred Lines” with Marvin Gaye’s “Got to Give it Up.”** Then ask students:

- Do you feel like these two songs sound similar? If so, in what ways?
- What are some key differences between them?

3. Ask students:

- What should the role of the law be in these situations? *(Answers will vary, but navigate the discussion so that you end with the fact that in the United States, the law does protect artists and allow them to own their art. One of those ways is through copyright law.)*

PROCEDURE

SECTION I - WHAT IS COPYRIGHT AND INTELLECTUAL PROPERTY?

1. Inform students that the Marvin Gaye estate took Pharrell Williams and Robin Thicke to court over these two songs. Such cases relate to what is called copyright law. The U.S. Copyright Office defines a copyright as “a type of intellectual property that protects original works of authorship as soon as an author fixes the work in a tangible form of expression.”
2. Distribute **Handout - Copyright 101** to each student (Teacher’s Guide here). Read the definition of intellectual property in Section I, 1a with students. Explain that in the United States we value intellectual property and protect it through the

legal system. This helps encourage people to create new works, experiment, and dedicate resources to ideas with the hopes that they can make a profit from it in the future.

3. Read the directions for 1b in the handout and give the students 2-3 minutes to make their guesses. They may only use each term once and may work with a neighbor.
4. Ask students to answer the question 1c. If desired, call on two-three students to share their answers.

SECTION II - WHAT CAN YOU COPYRIGHT?

5. Review the material in 2a with students. If students are confused by

words like “spark” or “transformative” explain those words to students.

6. Allow students to work with a partner or in a group to answer the questions in section 2b. Allow student volunteers to share their answers with the class. Then read 2c as a class.

SECTION III - WHEN CAN YOU USE A COPYRIGHTED WORK?

7. Review the material in section three with students, then ask:

- Can you describe the “Fair Use” doctrine in your own words?
- How is the word “fair use” determined?
- Can you name some examples where using copyrighted material might fall under “fair use”?
- Can you name some examples where using copyrighted material might not fall under “fair use”?

SECTION IV - APPLICATION OF KNOWLEDGE

8. Inform students that they will now be evaluating six actual cases regarding copyright to determine if each case constituted fair use or was a copyright violation.
9. Divide the students into six groups. Distribute six sticky notes to each group. Place one group at each of the six stations and instruct groups to begin evaluating the six cases by reading about each case, examining the evidence, and placing a sticky note either in the “violation” or “fair use” box. On the sticky note,

students are to write one sentence defending their decision. Each station should have a sheet from **Stations - Copyright Relay Case Cards**:

- **Station 1:** Marvin Gaye Estate vs. Robin Thicke & Pharrell
- **Station 2:** Shepard Fairey and the Obama “Hope” Poster
- **Station 3:** Richard Prince’s Instagram Series
- **Station 4:** John Lennon’s “Imagine” Used in a Documentary
- **Station 5:** Harry Potter Lexicon Fan Guide
- **Station 6:** The Verve and the Rolling Stones

10. Before letting students rotate to the next station, make sure they write a note describing their thought process on their sticky notes and stick it on violation or fair use. Then, have student groups move to the next station (with the students at station six moving to station one). Once students have visited all six stations, they can return to their seats.

11. Use **Stations - Copyright Relay Case Cards (Teacher’s Guide)** to review the real life cases and answer student questions. Then, conclude by asking students:

- Which cases did you find easiest to decide and why? (*Answers will vary, but likely the Marvin Gaye and Harry Potter cases might seem easy to students because of the song similarities and the fact that some of the book was copied*)



verbatim.)

- This was a very small sample of thousands of real life copyright cases. Why do you think there are so many disagreements about what counts as fair use? *(Answers will vary, but may include things like the rules are open to interpretation, people don't always agree on what's "transformative", or technology and social media have made copying easier and blur the lines - pun intended.)*
- What responsibilities do creators have when using someone else's

work — even if they think it's fair use? *(Answers will vary, but may include things like they should credit the original artist, check copyright rules or ask permission, and consider whether their use is respectful or necessary.)*

- Why is it important for young creators—like musicians, dancers, or content creators—to understand copyright law? *(Answers will vary, but may include things like so they don't accidentally violate someone else's rights, to protect their own work from being copied, and because they post online and could be held accountable.)*

SUMMARY ACTIVITY

1. Distribute **Handout - Assessment: Would You “Fight” This Case?** to each student. This can be completed in class or assigned as homework and may be graded or simply used as a formative assessment.
2. Using **Handout - Assessment: Would You “Fight” This Case? (Teacher's Guide)**, discuss answers with students as a big group, in small groups, or individually.

EXTENSION ACTIVITIES

1. Visit <https://www.copyright.gov/registration/performing-arts/> and watch some of the videos that go through the actual registration process. Then discuss or explain why many artists hire lawyers or specialists to complete this process on their behalf.
2. Dance copyright cases are increasing. Explore the “copyrightability” of popular viral dance trends. Working in small groups, you can:
 - Watch short clips of TikTok or YouTube dance routines
 - Decide whether the choreography might qualify for copyright protection, and present your reasoning using terms like “original,” “fixed,” or “common movements.”
 - Research the Single Ladies case or other examples (e.g., Fortnite emote lawsuits) to see how courts have ruled on dance-related claims.

STANDARDS

COLLEGE, CAREER, AND CIVIC LIFE (C3) SOCIAL STUDIES STANDARDS

Economics

D2.Eco.1.9-12. Analyze how incentives influence choices that may result in policies with a range of costs and benefits for different groups.

GEORGIA STANDARDS OF EXCELLENCE SOCIAL STUDIES

SSEMA1b. Explain the differences between seasonal, structural, cyclical, and frictional unemployment.

SSEMI1. Describe how households and businesses are interdependent and interact through flows of goods, services, resources, and money.

SOCIAL STUDIES – NATIONAL COUNCIL FOR THE SOCIAL STUDIES (NCSS)

Theme 1: Culture

Theme 2: Time, Continuity, and Change

Theme 3: People, Place, and Environments

Theme 5: Individuals, Groups, and Institutions

Theme 7: Production, Distribution, and Consumption

Theme 8: Science, Technology, and Society

Theme 9: Global Connections

VOLUNTARY NATIONAL CONTENT STANDARDS IN ECONOMICS

Standard 19: Students will understand that: Unemployment imposes costs on individuals and the overall economy. Inflation, both expected and unexpected, also imposes costs on individuals and the overall economy. Unemployment increases during recessions and decreases during recoveries.

COMMON CORE STATE STANDARDS

College and Career Readiness Reading Literature Standards for Grades 9-12

CCSS.ELA-Literacy.RL.9-10.1 Cite strong and thorough textual evidence to support analysis of what the text says explicitly as well as inferences drawn



from the text.

CCSS.ELA-Literacy.RL.9-10.2 Determine a theme or central idea of a text and analyze in detail its development over the course of the text, including how it emerges and is shaped and refined by specific details; provide an objective summary of the text.

CCSS.ELA-Literacy.RL.9-10.4 Determine the meaning of words and phrases as they are used in the text, including figurative and connotative meanings; analyze the cumulative impact of specific word choices on meaning and tone (e.g., how the language evokes a sense of time and place; how it sets a formal or informal tone).

CCSS.ELA-Literacy.RL.11-12.1. Cite strong and thorough textual evidence to support analysis of what the text says explicitly as well as inferences drawn from the text, including determining where the text leaves matters uncertain.

CCSS.ELA-Literacy.RL.11-12.4 Determine the meaning of words and phrases as they are used in the text, including figurative and connotative meanings; analyze the impact of specific word choices on meaning and tone, including words with multiple meanings or language that is particularly fresh, engaging, or beautiful.

College and Career Readiness Reading Information Text Standards for Grades 9-12

CCSS.ELA-Literacy.RI.9-10.1 Cite strong and thorough textual evidence to support analysis of what the text says explicitly as well as inferences drawn from the text.

CCSS.ELA-Literacy.RI.9-10.2 Determine a central idea of a text and analyze its development over the course of the text, including how it emerges and is shaped and refined by specific details; provide an objective summary of the text.

CCSS.ELA-Literacy.RI.9-10.3 Analyze how the author unfolds an analysis or series of ideas or events, including the order in which the points are made, how they are introduced and developed, and the connections that are drawn between them.

CCSS.ELA-Literacy.RI.9-10.4 Determine the meaning of words and phrases as they are used in a text, including figurative, connotative, and technical meanings; analyze the cumulative impact of specific word choices on meaning and tone (e.g., how the language of a court opinion differs from that of a newspaper).



CCSS.ELA-Literacy.RI.11-12.1 Cite strong and thorough textual evidence to support analysis of what the text says explicitly as well as inferences drawn from the text, including determining where the text leaves matters uncertain.

CCSS.ELA-Literacy.RI.11-12.3 Analyze a complex set of ideas or sequence of events and explain how specific individuals, ideas, or events interact and develop over the course of the text.

CCSS.ELA-Literacy.RI.11-12.4 Determine the meaning of words and phrases as they are used in a text, including figurative, connotative, and technical meanings; analyze how an author uses and refines the meaning of a key term or terms over the course of a text.

College and Career Readiness Anchor Standards for Writing for Grades 9-12

CCSS.ELA-Literacy.W.9-10.1 Write arguments to support claims in an analysis of substantive topics or texts, using valid reasoning and relevant and sufficient evidence.

CCSS.ELA-Literacy.W.9-10.2 Write informative/explanatory texts to examine and convey complex ideas, concepts, and information clearly and accurately through the effective selection, organization, and analysis of content.

CCSS.ELA-Literacy.W.9-10.3 Write narratives to develop real or imagined experiences or events using effective technique, well-chosen details, and well-structured event sequences.

CCSS.ELA-Literacy.W.9-10.4 Produce clear and coherent writing in which the development, organization, and style are appropriate to task, purpose, and audience. (Grade-specific expectations for writing types are defined in standards 1-3 above.)

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CCSS.ELA-Literacy.W.11-12.4 Produce clear and coherent writing in which the development, organization, and style are appropriate to task, purpose,

and audience. (Grade-specific expectations for writing types are defined in standards 1-3 above.)

College and Career Readiness Anchor Standards for Speaking and Listening for Grades 9-12

CCSS.ELA-Literacy.SL.9-10.1 Initiate and participate effectively in a range of collaborative discussions (one-on-one, in groups, and teacher-led) with diverse partners on grades 9-10 topics, texts, and issues, building on others' ideas and expressing their own clearly and persuasively.

CCSS.ELA-Literacy.SL.9-10.2 Integrate multiple sources of information presented in diverse media or formats (e.g., visually, quantitatively, orally) evaluating the credibility and accuracy of each source.

CCSS.ELA-Literacy.SL.9-10.4 Present information, findings, and supporting evidence clearly, concisely, and logically such that listeners can follow the line of reasoning and the organization, development, substance, and style are appropriate to purpose, audience, and task.

CCSS.ELA-Literacy.SL.11-12.1 Initiate and participate effectively in a range of collaborative discussions (one-on-one, in groups, and teacher-led) with diverse partners on grades 11-12 topics, texts, and issues, building on others' ideas and expressing their own clearly and persuasively.

CCSS.ELA-Literacy.SL.11-12.2 Integrate multiple sources of information presented in diverse formats and media (e.g., visually, quantitatively, orally) in order to make informed decisions and solve problems, evaluating the credibility and accuracy of each source and noting any discrepancies among the data.

CCSS.ELA-Literacy.SL.11-12.4 Present information, findings, and supporting evidence, conveying a clear and distinct perspective, such that listeners can follow the line of reasoning, alternative or opposing perspectives are addressed, and the organization, development, substance, and style are appropriate to purpose, audience, and a range of formal and informal tasks.



RESOURCES

VIDEO RESOURCES

- Comparing Robin Thicke's "Blurred Lines" with Marvin Gaye's "Got to Give it Up"
- Comparing The Verve's "Bitter Sweet Symphony" with The Rolling Stone's "The Last Time"

HANDOUTS

- Handout - Copyright 101
- Handout - Copyright 101 (Teacher's Guide)
- Station Activity - Copyright Relay Case Cards
- Station Activity - Copyright Relay Case Cards (Teacher's Guide)
- Handout - Assessment: Would You "Fight" This Case?
- Using Handout - Assessment: Would You "Fight" This Case? (Teacher's Guide)