

## "FAIR USE" OF CREATIVE WORKS FOR TEACHING AND RESEARCH

The Israeli Copyright Act of 2007 (the "**Law**") grants the author of a creative work the exclusive right to do with the work, or a substantial part thereof, certain acts (such as reproduction, publication, public performance, making a derivative work etc.) . The Law establishes provisions regarding the rights of authors of creative works and the protection of such rights. In general, it is forbidden to make such uses of copyrighted works, including books, articles, magazines etc., without the consent of the right holder.

An exception to the general restriction is when there are **license agreements** between the Technion and publishers, relating to digital periodicals and books located in the library database. These agreements allow wide use of these works to Technion users, for research and teaching purposes, within the Technion only. It is forbidden to pass on such materials to parties outside the Technion, or allow them access to such works (except as stipulated under the terms of the license) and in general, they should not be used for any purpose which is not related to the Technion. Such acts violate copyright and license terms, and may lead to legal proceedings. Violation of these license agreements may also lead to restriction of access to these sources for the entire Technion

Another exception to the general limitation, which does not relate to works that are included in license agreements but to all other works, is stated in clause 19 of the Law (The "Fair Use" clause). Clause 19 allows academic institutions to make use of works, provided that such use is "for teaching and research", and provided further that it is "**Fair Use**". This is a relatively new addition to the law, which has not yet been subject to court rulings. Therefore, institutions of higher education have devised operative criteria in order to help define what constitutes "Fair Use". These criteria are detailed in the document of the "Forum for accessible education": "[Code of Best Practices for the Use of Creative Works for Teaching and Research](#)", which can be viewed on the Library website. The following guidelines are based on this document.

### 1.1 Guidelines for Fair Use

- The works constitute teaching material required by the lecturer for a course taught at the Technion, for students of the Technion; the use should be proportionate, that is, no more than what is required for the course.
- There is no free access to these works through open sources on the internet (if an open source exists, use it).
- Access to the works is restricted to course students, the academic staff, and Technion administrators only, via the MOODLE operating system or its equivalent, and only for the

duration of the course and examinations. Distributing or providing access to any other party is prohibited.

- The Technion libraries have legal access to at least one copy of the works.
- "Fair Use" for preparing teaching material (electronic reprints) of the work will comprise of no more than one-fifth of the work, subject to the following provisions:
  - This restriction does not apply to works that are indivisible, such as pictures, photographs, tables, graphs or songs (In these instances, one may use the entire work, subject to compliance with all other provisions)
  - Use of articles (periodicals that the Technion does not have a subscription to its electronic format, or collections of articles) is limited to one article per issue of the periodical or collection.
- The above guidelines do not constitute a closed list. In case of a question or doubt, or where the guidelines do not provide a satisfactory response, contact the director of the Central Library.
- Anyone wishing to deviate from these guidelines – by using a larger part of a work or a collection of articles, using a work which does not exist in the Technion's libraries or in any other manner, including a manner which is not included in these guidelines, can apply, through the director of the Central Library, to the committee appointed by the Senior Vice President, which will conclude whether the required use meets the "Fair Use" criteria.
- When using a work or part of it, **be sure to give proper credit to its author.**

## 1.2 Additional guidelines for creating printed collections

In order to minimize the economic damage to the copyright owners and to prevent making a profit at their expense:

- Course packs (academic readers) will be printed and distributed only to students in the course.
- The price of the course pack will reflect the production costs (i.e. do not make a profit by selling these readers, but merely cover their production costs)

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