

Digital Audio Reserves Copyright Policy

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This policy is intended for use by (1) instructors and staff using the University of Connecticut Libraries' Digital Audio Reserve (DAR) service, and (2) library staff who supervise the processing of DAR requests. The DAR copyright policy is separate and distinct from the Libraries' Electronic Course Reserve (ECR) copyright policy however, selected materials (identified below) are subject to ECR guidelines. The DAR and ECR copyright policies may be merged in the future. This document may also be superseded by, or merged into, a broader library or university copyright policy.

Definitions

Sound recordings are defined in the law as "works that result from the fixation of a series of musical, spoken, or other sounds, but not including the sounds accompanying a motion picture or other audiovisual work." Common examples include recordings of music, drama, or lectures. A sound recording is not the same as a phonorecord. A **phonorecord** is the physical object in which works of authorship are embodied. The word "phonorecord" includes cassette tapes, CDs, LPs, 45 r.p.m. disks, as well as other formats.

– U.S. Copyright Office, <http://www.copyright.gov/title17/92chap1.html#101> (accessed 30 March 2011).

Audio reserves traditionally are phonorecords (any format) of sound recordings set aside (or "reserved") for class use. Such materials are usually kept in the library's closed stacks (e.g., behind the circulation desk) and are available by request for a restricted time to ensure availability to all students.

Digital delivery refers to the transfer of print or sound recordings from any type of physical item (e.g., book or phonorecord) to digital files that are stored on a library or university server and subsequently made available (streamed or otherwise) to users over the Internet at library computers and users' homes, offices, and dorms. All references to "digital copies" in this document refer to digital files of sound recordings created from any physical phonorecords.

Digital Audio Reserve is the digital delivery of audio reserve material to students enrolled in a given class.

DAR Copyright Policy

Copyrighted materials used in DAR must be owned by the University of Connecticut Libraries, a University of Connecticut department, or the course instructor, and are made available for educational use and curriculum support only. Permission to use sound recordings that are not owned by the University of Connecticut or the course instructor must be obtained in writing from the owner(s) of copyright. The Libraries will make a good faith effort to purchase a commercially available copy, if available, of materials that are provided by the instructor or department for reserve. At the instructor's request, library staff will provide access within the specified course in WebCT to digital copies of sound recordings. For musical works, whole movements or an entire works may be used; amounts are limited to those normally required as assigned listening. Literary materials in audio format are subject to ECR copyright guidelines for analogous print materials (i.e., only portions will be used); ECR guidelines may be found at <http://www.lib.uconn.edu/online/services/reserve/copyrightguidelines.html>. Library staff reserve the right to refuse materials if, in their judgment, the materials exceed fair use. Library staff will remove access to digital copies at the end of the requested semester.

All digital copies and online delivery of sound recordings made from phonorecords for use in DAR must be in compliance with Title 17, *United States Code*, including its Fair Use provisions in Chapter 1, section 107 and the provisions of the TEACH Act embodied in Title 17, *United States Code*, Chapter 1, Section 110 (2). The library also acts in accordance with the Music Library Association's Statement on the Digital Transmission of Electronic Reserves and the DAR Copyright Bibliography.

Responsibilities of the University of Connecticut Libraries

Access to digital copies of audio materials must be through library-controlled equipment and campus-restricted networks, and is available off- and on-campus only to individuals who have been authenticated: namely, students enrolled either in a course or in formal independent study with an instructor at the University of Connecticut. Access will be provided through WebCT.

The Libraries will take reasonable technological measures to minimize students' ability to copy, share, or retain recordings. At this writing such measures include streaming audio.

The Libraries will remove student access to the files at the completion of the course; files will not be otherwise publicly available.

The Libraries may choose to store course files for future re-use. This includes the digital copy made from an instructor's original, if the library has made a good faith effort to purchase its own copy commercially at a reasonable market value.

In compliance with copyright, the Libraries may provide electronic transmissions of the following audio materials:

- Performances (partial or entire) of all non-dramatic musical works. Such works would include all music other than operas, musicals, and ballets.
- Reasonable and limited portions of any dramatic musical works, (e.g. operas, musicals, and ballets).
- Other materials with appropriate permissions of the copyright holder.

The Libraries reserve the right to refuse materials that they believe to be non-compliant with copyright law.

The following materials will not be offered through Digital Audio Reserve:

- Consumables (e.g., workbooks)
- Textbooks
- Practice tapes
- Commercial anthologies
- Works that musically replicate more than 25% of a commercial anthology (even if the performances are different)
- Works prohibited by licensing restrictions.

The original phonorecord will also be placed on reserve; if additional circulating phonorecords of a work are needed, the library will purchase them.

The Libraries will make a good faith effort to purchase a commercially available copy, if available, of anything that is provided by the instructor for reserve.

Items that are needed for immediate, spontaneous use may be placed on reserve while a good faith effort is made to lawfully acquire the work. Such items will not be retained or re-used unless the work is acquired or permissions granted.

The DAR copyright Policy and supporting documentation will be posted on a public web site to facilitate copyright compliance by all parties.

A generic copyright notice must appear (a) as a static or pop-up message on the initial screen in the DAR WebCT system or user page and/or (b) as a pop up window after the user selects the audio file to be played back.

The materials found in Digital Audio Reserve are owned, held, or licensed by the University of Connecticut or course instructors, and are available for non-commercial, educational use by students enrolled in designated courses. Files are available for streamed, non-recordable playback in class, related course study outside of class, or course research. Any materials used in research

or course activity must be properly cited. Further use of materials, including reposting, redistribution, public display, entertainment, or commercial use is prohibited. Inquiries about this service should be directed to [Name and contact information for appropriate library staff member.] The University of Connecticut is not, under any circumstances, responsible for the unauthorized use or redistribution of digital audio files found on this website.

Each audio file embodying a sound recording should contain the following three elements:

- a. *The symbol (P)* (the letter P in a circle or parentheses); and
- b. *The year of first publication* of the sound recording; and
- c. *The name of the owner of copyright* in the sound recording, or an abbreviation by which the name can be recognized, or a generally known alternative designation of the owner. If the producer of the sound recording is named on the phonorecord label or container and if no other name appears in conjunction with the notice, the producer's name shall be considered a part of the notice.

Example: (P) 2002 A. B. C. Records Inc.

Responsibilities of Instructors at the University of Connecticut

Permissions or licensing must be appropriately procured in writing by the instructor for the following items, remembering that copyright and mechanical rights apply to the work and the performance:

- Archival recordings
- Copyrighted materials used in recorded course lectures
- Departmental performances
- Materials not owned by the UConn Libraries, the course instructor, or other University of Connecticut Departments

Instructors who submit digitized files to DAR must sign the *Copyright Compliance Form* signifying acceptance of the DAR copyright policy and verifying that files submitted are copyright compliant according to posted guidelines. This form can be obtained from and returned to the service desk handling the DAR request.

If an instructor submits a sound recording of her/his own lecture for DAR, it is assumed that s/he gives permission for library staff to make appropriate copies necessary to process the request. Sound recordings of course lectures placed on reserve by someone other than the lecturer must be accompanied by written permission from the lecturer.

The instructor assumes responsibility for copyright compliance for any audio materials they post or mount on their own WebCT course sites. The instructor should consult University copyright guidelines to determine if their own posted audio files are copyright compliant. In the absence of such guidelines, they may consult the following resources to help gauge the limits of what they may do:

- *University of Connecticut Libraries' Digital Audio Reserve Copyright Policy*
Note: This document pertains only to the UConn Libraries DAR service. It is not a copyright guide for instructors wishing to mount their own audio files. The document is, however, based on Fair Use from Title 17, Section 107 of the Copyright Law, as well as other widely disseminated library guidelines for the online delivery of material in an academic setting.
- *University of Connecticut Libraries' Digital Audio Reserve Copyright Compliance Form*
This form is not required for instructors posting their own material, but may serve as a brief guideline.
- *University of Connecticut Libraries' Digital Audio Reserve Bibliography*
May help instructors identify useful resources when constructing their own fair use arguments.