This handout was distributed during a meeting of the Digital Writing Collaborative at Miami University on November 3, 2010. The presenters were Ann Updike and Mandy Watts.
Check out the DWC Blog, which is full of helpful information and ideas.

The Ethics and Politics of Multimedia Composing

"The primary objective of copyright is not to reward the labor of authors, but '[t]o promote the Progress of Science and useful Arts.' To this end, copyright assures authors the right to their original expression, but encourages others to build freely upon the ideas and information conveyed by a work. This result is neither unfair nor unfortunate. It is the means by which copyright advances the progress of science and art."
-Justice Sandra Day O'Connor, Feist Publications, Inc. v. Rural Telephone Service Co., 499 US 340, 349(1991)

Ethics: What is fair use and how is it determined? Why can't I use whatever I want?

The doctrine of fair use allows individuals to reproduce copyrighted works depending upon the *purpose* of the reproduction. Critique, commentary, news reporting, teaching, researching, and scholarship benefit from the fair use doctrine.

> *Tidbit: the "fair use doctrine" came about in 1841 and granted an author permission to include letters written by G. Washington as part of the former president's biography

Section 107 of current copyright law http://www.copyright.gov/fls/fl102.html
delineates four factors that determine whether or not the reproduction of a text falls under fair use:

1. The purpose and character of the use, including whether such use is of commercial nature or is for nonprofit educational purposes (Are the motives for reproducing the work *ethical*?)
2. The nature of the copyrighted work (What genre/medium/mode is used to reproduce the work?)
3. The amount and substantiality of the portion used in relation to the copyrighted work as a whole (Does the text reproduce too much material?)
4. The effect of the use upon the potential market for, or value of, the copyrighted work (Does the text harm the money-making impetus for creativity and contribution?)

Framed as a question of ethics, it seems important to ask if the factors above are about protecting the authorial genius of a writer/rhetor/creator, an imagined intellectual community, the concept of intellectual property, the ideals of a free market, etc. How does this square with our sense of ethics as teacher/scholars?

To read current copyright law in full, check out: http://www.copyright.gov/title17/

Politics: What are the stakes? How can we keep fair use fair?

Various organizations and individuals are part of the fair use "posse"—promoting fair use, protecting rights, fighting for open access. If you want to see what the issue is all about, here are just a few sources:

EFF: *The Electronic Frontier Foundation is a non-profit legal organization that advocates for and defends personal digital rights in court*
http://www.eff.org/

Lawrence Lessig, *Professor of Law and Director of the Edmond J. Safra Center for Ethics at Harvard, Co-founder of Creative Commons, Founder of Stanford's Center for Internet and Society, former board member of EFF, leading expert and advocate for digital rights*
http://www.ted.com/talks/larry_lessig_says_the_law_is_strangling_creativity.html
Lecture about laws that inhibit creativity

http://www.ted.com/talks/lessig_nyed.html
Lecture re-examining the remix

Added plus: in both videos, you can see the Lessig Method of minimalist PPT presentation.

Cory Doctorow , *sci-fi writer, technology blogger for* The Guardian*, digital rights activist*
http://craphound.com/   (personal website)
http://boingboing.net/   (blog)
http://www.q2cfestival.com/play.php?lecture_id=7748
Lecture: Copyright versus Universal Access to All Human Knowledge and Groups without Cost: the state of play in the global copyfight

Classroom Practice: How can we help students understand fair use of intellectual property in their multimedia compositions?

Class activities

- Have a discussion: Explain fair use and why it matters. Watch "A Fair(y) Use Tale" and/or one of the videos from the Center for Social Media (such as "Recut, Reframe, Recycle" or "Remix Culture: Fair Use is Your Friend") to begin class discussion about fair use and multimodal composing.

- Have students engage with/interpret fair use guidelines: Handout the Center for Social Media's pdf "Code of Best Practices for Fair Use in Online Video" and watch the "Remix Culture: Fair Use is Your Friend" best practices video, both provided at Code of Best Practices for Fair Use in Online Video. (Note: You may want to fast forward through the video example spoilers for the next part of this activity.) After watching the Best Practices video and reviewing the handout, ask students (in groups or as a whole class) to explain why the following youtube videos are fair use; students should point to the relevant category(ies) in the Best Practices guide and specific examples in the video to explain why each video is fair use. Students should provide as much reasoning as they can to explain the fair use (e.g., how did the creator transform the material? in what context did the creator use the material? For what purpose, audience, etc.).
http://www.centerforsocialmedia.org/video/fair-use-online-video-discussion-clips

  Teacher cheat: A description of each video's fair use is provided here:
http://centerforsocialmedia.org/sites/default/files/key_to_fair_use_videos.doc

  Additional videos, organized by fair use category:
http://www.centerforsocialmedia.org/fair-use/best-practices/online-video/recut-reframe-recycle

- Begin a class discussion by reviewing examples of previous court rulings on fair use at
http://fairuse.stanford.edu/Copyright_and_Fair_Use_Overview/chapter9/9-c.html

- Assign a short mashup: Gauge student understanding of fair use by having them create a short video using copyrighted material, including a written explanation of why her or his video is a fair use of the material. The original assignment and rubric are here:
http://centerforsocialmedia.org/sites/default/files/online_video_assignment.doc
http://centerforsocialmedia.org/sites/default/files/rubric_for_grading_fair_use_assignments.doc

  These and other teaching tools are available from the Center for Social Media
http://centerforsocialmedia.org/fair-use/related-materials/teaching-materials/fair-use-teaching-tools

  The EFF also provides a curriculum guide for teaching about copyright and fair use
http://www.teachingcopyright.org/curriculum/hs/1

Additional Reference/Resource sites for fair use, intellectual property, and creative commons:

- A Best Practices Guide for Fair Use in Online Video (both online and in pdf), developed by the Center for Social Media
  http://www.centerforsocialmedia.org/fair-use/related-materials/codes/code-best-practices-fair-use-online-video

- Guidelines for teachers using media in their classroom and for their students, with some helpful FAQs.
  http://centerforsocialmedia.org/fair-use/related-materials/codes/code-best-practices-fair-use-media-literacy-education

- Teaching tools for explaining fair use; includes PowerPoint lecture notes, activities, an assignment and rubric for understanding fair use when creating online video
  http://centerforsocialmedia.org/fair-use/related-materials/teaching-materials/fair-use-teaching-tools

- A curriculum guide for teaching copyright and fair use, from the EFF
  http://www.teachingcopyright.org/curriculum/hs/1

- "A Fair(y) Use Tale" uses Disney clips to explain intellectual property, copyright, and fair use
  http://www.youtube.com/watch?v=CJn_jC4FNDo

- A chart to help you determine if a work is in the public domain or still under copyright protection, based on the work's creation date and the shifting fair use rules
  http://copyright.cornell.edu/resources/publicdomain.cfm

- A good explanation of why much of the copyrighted material in mashups and remixes on youtube should be considered fair use. The short video imbedded in the page is informative and has some great youtube examples within it.
  http://centerforsocialmedia.org//fair-use/related-materials/documents/recut-reframe-recycle

- Video clips to spark discussion on how they follow fair use guidelines
  http://www.centerforsocialmedia.org/video/fair-use-online-video-discussion-clips

- The Electronic Frontier Foundation is a non-profit legal organization that advocates for and defends personal digital rights
  http://www.eff.org

- Our DWC site has more links to info on fair use and copyright, and also provides sites that contain creative commons licensed images and sounds for student projects
  http://unixgen.muohio.edu/~dwc/