

# Intellectual Property no Jutsu: Copywrongs, Fair Use, and Naruto v. Slater

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## Essential Question(s)

- How can you use someone else's work ethically and legally within your own work to create something new?

## Summary

This resource is intended to help teachers and students understand the complicated legal concepts of fair use and copyright and how they apply to day-to-day club activities, especially in clubs related to writing, art, journalism, A/V, and other forms of media production. In this lesson, students learn the core concepts of intellectual property, copyright, and fair use as they reflect on their own creative projects and explore real-world examples. Students design their own logos, weigh the ethics of copyright, learn how to transform and cite others' works, and put these concepts into practice by starting portfolios of their creative work.

## Learning Goals

## Attachments

- Activity Slides—Intellectual Property no Jutsu.pptx
- TASL Card—Intellectual Property no Jutsu - Spanish.pdf
- TASL Card—Intellectual Property no Jutsu.pdf

## Materials

- Activity Slides (attached)
- TASL Card handout (attached; three per student)
- Student devices with internet access

15 minutes

# Engage

### Teacher's Note: Club Curriculum

This lesson is part of a series of flexible curricula intended for student media clubs, such as journalism, art, or A/V clubs. This activity may be used by itself or in conjunction with other activities found in the Journalism Lesson Collection.

Use the attached **Activity Slides** to facilitate the lesson. Introduce the essential question and learning objectives on **slides 3–4**.

Move to **slide 5** and invite students to design their own personal logos. Tell students that this personal logo should be simple, like a symbol or silhouette, should be unique from other well-known logos, and should include a maximum of two colors.

### Optional Logo Example

Consider creating your own personal logo to show students. Explain how your logo fits your personal "brand" and style. Guide students to understand your creative choices.

Have students take out a piece of paper and ask them to sketch a few different design ideas for their logos. Encourage them to focus on quantity rather than quality during this step. Begin the five-minute timer on the slide.

Next, ask students to review their sketches and decide which design they want to refine. Move to **slide 6**. Have each student turn to an Elbow Partner and discuss the prompt on the slide: "Explain why you chose your design. How does it represent your personal brand of self expression and the creative identity you would like to grow into?"

Allow students time to discuss their personal logos. Ask them to then set aside their designs for now.

Display **slide 7** and have students think about the following scenario on the slide: "I took your logo, put it on a sweatshirt, and sold each sweatshirt for 60 dollars each."

Then ask students to discuss the following questions with their Elbow Partner:

- How would you feel if this happened to you?
- What can you do about this?
- In this scenario, what do you think gives you the right to take action against me? What do you think protects me?

### Possible Student Responses

As students discuss the prompts above, particularly the third prompt, circulate the room and listen. If students have trouble inferring what gives them the right to take action, ask them about possible legal rights and protections. Why would someone be in the wrong if they used another student's logo for profit? Conversely, why would it be okay for someone to use another student's logo?

Once students have discussed these questions with their partners, have them share out their thoughts with the whole class.

Display **slide 8** and facilitate a whole-class discussion over the prompts. Explain to students the legal implications of using a copyright-protected logo without permission. Let students know that when they create something, like their logo, it is automatically protected by copyright law.

If desired, ask students who would choose to take you to court by a show of hands.

30 minutes

# Explore

**Teacher's Note: Word Cloud Preparation**

Using Mentimeter, create an account and select the "Word cloud" feature. Choose a word cloud template and enter the following prompt: "What counts as intellectual property?"

Copy the QR code an paste it into **slide 13** of the Activity Slides to prepare for the activity at the end of the Explore phase.

If you prefer not to use Mentimeter, consider instead using the Collaborative Word Clouds instructional strategy with the same prompt.

Move to **slide 9** and ask students if they've ever heard the phrase "information wants to be free." Encourage students to raise their hands or offer up other responses.

Show **slide 10** and have students read the full quote with the phrase in context: "On the one hand, information wants to be expensive because it's so valuable. The right information in the right place just changes your life. On the other hand, information wants to be free because the cost of getting it out is getting lower and lower all the time. So you have these two fighting against each other."

Draw students' attention to the prompt on the right side of the slide. Have them consider the question, "Thinking about the quote and what you have learned so far, what do you think "information wants to be free" means in its full context?"

Use the Think-Pair-Share instructional strategy to have students reflect on the quote. Have them individually write a response to the prompt on paper. Have each student then find a partner and have pairs discuss their responses. Allow students time to discuss, then invite students to share out what they discussed in their pairs.

**Possible Student Responses**

Students who are familiar with the phrase may associate it with the idea that all people should be able to access information without cost, the idea that information tends to spread naturally, or the idea that laws limiting transparency and access to information are unjust.

These understandings are fine as a starting place.

For now, don't tell students what the quote means. Instead, allow students time to construct their own understanding. This allows for a more authentic learning process.

Display **slide 11** and reference the slide to clarify what the originator the quote, Stewart Brand, was discussing at the time.

Display **slide 12** and share the DMCA image. Ask students if they have ever seen this image or one like it. Supply the term "DMCA takedown" if students do not mention it. Tell students that DMCA stands for "Digital Millennium Copyright Act."

Help students understand that this message, which is one they've likely encountered before in different forms, is an example of legal protection and an attempt to restrict content that was used without permission. Tell students that this can happen when a person or corporation finds copyrighted media they own, like a song, movie, or other intellectual property, uploaded to a website like YouTube. The person or corporation affected then files a DMCA takedown and the website removes the content.

Move to **slide 13** and provide the QR code or link to your Mentimeter word cloud with students. Ask students to respond to the prompt on the slide: "What counts as intellectual property?"

### Optional Collaborative Word Clouds

If not using Mentimeter, segue into the Collaborative Word Clouds instructional strategy instead.

Give students time to respond. Display **slide 14** and explain to students that intellectual property is any creation—inventions, written works, art, music, etc.—that began as an idea; you can't copyright a feeling, but you can protect a tangible version like a song, design, or article. Review the examples of intellectual property on the slide.

Have students form groups of 3–4 to discuss which words in the word cloud might or might not be intellectual property. Once students have discussed in their groups, ask them to share out their thoughts.

Move to **slide 15**. Remind students that the personal logo they created earlier is considered intellectual property. Ask students what else they may have created recently that could be considered intellectually property. Then, ask them if they've ever used or transformed something created by someone else, like a drawing or a photograph.

Have students discuss their responses to the questions on the slide within their small groups. Invite students to share their thoughts with the whole class.

Display **slide 16** and begin to define copyright with students. Review the following eight categories of copyrightable work on the slide:

1. Literary
2. Musical
3. Dramatic
4. Choreographic
5. Visual art
6. Film
7. Architecture
8. Sound

Point out which categories encompass the work your club or class most often does. Consider providing examples of such works to help students understand how the concepts you've been working with can apply to them as club members.

Display **slide 17** and tell students that copyright protects all original works equally, regardless of quality or purpose. Reiterate that, but this principle, students legally own all of the work they create in your club and for school.

**Optional Video Resources**

If you or your students need more clarification on the concepts covered so far, consider sharing the following videos:

- *Introduction to IP: Crash Course Intellectual Property #1*
- *Copyright Basics: Crash Course Intellectual Property #2*

Move to **slide 18** and ask students to take out a piece of paper. Introduce the Sketchnotes instructional strategy. Invite students to take notes on the upcoming video in writing while visually enhancing ideas with lines, shapes, dots, arrows, colors, diagrams, etc. Encourage students to focus on the key points and main ideas.

Move to **slide 19**. Play the video on the slide, *Copyright, Exceptions, and Fair Use: Crash Course Intellectual Property #3*.

**Embedded video**
https://youtube.com/watch?v=Q_9O8J9skL0

Once students have watched the video, encourage them to review their notes and add final thoughts or embellish their existing sketches.

Display **slide 20**. Invite students to respond at the bottom of their notes to the question on the slide: "What piece of knowledge do you think is or will be most useful to you?"

35 minutes

# Explain

Ask students if, given what they've learned so far, they think using someone else's work without permission is considered stealing. Display **slide 21** and ask students what they think the difference is between stealing someone else's work and transforming someone else's work.

Ask students how they would define the word "transform" in this situation.

### Possible Student Responses

Students should come to understand that "transform" denotes one thing changing into a new form. If needed, explain the idea that transforming a work means creating something different from something that another person already created. Help students distinguish this from stealing another person's work without transforming it.

### Optional Parody Examples

If students have trouble forming or articulating a viewpoint, consider showing students different parody works. These could include *The Scream* Spongebob parody by Edvard Munch featured on a Redbubble storefront, or the paintings featured in the French article, "Cet artiste transforme les Pokémon les plus célèbres en peintures de la Renaissance" ("This artist transforms the most famous Pokémon into Renaissance paintings"). These serve as examples of transformative works.

You may also explain it this way: Transforming another creator's work within your own creative project is much like quoting outside sources in a research paper.

Ensure that students understand that transforming work is acceptable under copyright law given it meets a certain standard; this is called fair use.

Move to **slide 22.** Go over the four factors on the slide to help students understand what to consider when determining fair use. If needed, reference these talking points:

- Why are you using it?
  - If you're using it for school, a project, or to teach or comment on something, that's usually fair.
  - Example: You make a video essay about a movie and use short clips to explain your points.
- What kind of thing are you using?
  - It is more fair to use something that is already published, like a book or song, rather than something unpublished.
  - It is more fair to use something factual than something fictional or from a creative work.
  - Example: It is more fair to quote a news article rather than copy a portion of a comic strip.
- How much are you using?
  - It is more fair to use a small part of something rather than a big chunk. Only use what you need.
  - Example: It is more fair to use 10 seconds of a song in your podcast rather than the whole track.
- Will using it take away from the original creator's money or audience?
  - If your version replaces the original author's work or stops people from buying it, that is unfair.
  - Example: It is more fair to remix a song you like and upload it to YouTube rather than uploading the original song.

Show **slide 23**. Go over the two golden rules on the slide:

- **Golden Rule #1:** This rule asks students to treat others in the same way they'd like to be treated in matters of responsibly referencing and remixing others' work.
- **Golden Rule #2:** This rule serves to remind students that the real-life enforcement of intellectual property and copyright laws often depends on who ultimately owns the intellectual property in question. In other words, a student who uses a picture of Mickey Mouse in an art project is more likely to run into trouble than a student who uses a picture of a lesser-known character from an independent animation studio.

### Teacher's Note: Understanding the Golden Rules

Golden Rule #1 encourages students to think empathetically: "Would I be okay if someone used my work in the way I'm using theirs?"

Golden Rule #2 introduces a critical lens: Sometimes the law protects the powerful more than the small creator. This rule helps students stay aware of how copyright systems are enforced in practice. It also reinforces that fair use isn't a loophole—it's a defensible position rather than an ironclad right.

The purpose of showing these contradicting claims is to help students connect copyright and fair use to real-world ethics and power dynamics in media. It is important that students understand not only what is strictly legal, but also how the law isn't always equally or ethically enforced.

### Optional Lines of Agreement

Consider adding movement into your lesson by engaging students in the Lines of Agreement instructional strategy. Ask students to choose which of the golden rules they believe is more important. Have students form two lines facing each other, with one line to represent Golden Rule #1 and one line to represent Golden Rule #2.

Have students partner with the student(s) across from them and have partners discuss their reasoning for why their chosen rule is more important. You can have each student speak one at a time to hear out all arguments, or you can have pairs discuss by themselves to save time. After the discussion, ask the whole group if anyone would like to switch lines based on what they heard.

Move to **slide 24** and give each student three copies of the attached **TASL Card** templates. Go over what TASL stands for:

- T: Title
- A: Author
- S: Source
- L: License

Tell students that these cards are tools to help them find and catalogue resources they can reference and transform in their own work.

**Teacher's Note: TASL Card Examples**

The TASL Cards are modeled after trading cards, like Pokémon or Magic the Gathering cards. Think of TASL Cards as a method to catalogue individual resources, articles, and other creative works by creating a "deck" of pre-cited creative inspiration.

Consider copying or modifying the example card slide to make a TASL Card for a resource you may use in your club.

Move to **slide 25** and review an example of a completed TASL Card with students.

After reviewing the example, move to **slide 26.** Depending on the content of your class, direct students to websites, books, magazines, and other classroom resources that they may use to gather information. Consider also directing students to the Creative Commons Openverse portal to find works with a Creative Commons license. Have students use these resources to complete all three of their TASL Card templates.

Make sure students research content that is relevant to your class. For example, art clubs or other visual media clubs may benefit from researching art or design references in books and magazines.

**Teacher's Note: Common Terms**

Common terms students may encounter as they search for resources include:

- *Public domain*: A work in the public domain is not protected under copyright. Anyone can use it without permission or citation.
- *Creative Commons*: A work in the Creative Commons has some rights reserved. It is protected by copyright, but the owner has chosen to permit its use for certain purposes. See the Creative Commons' About CC Licenses page for more information on what CC permits.
- *Royalty-free*: The "royalty-free" label does not grant you permission to use the work for free. Instead, royalty-free work is available for a one-time purchase without incurring royalties. Royalties are percentage-based earnings to be paid to the owner of the intellectual properties. Advise students to avoid works with this term.

Give students time to find resources, review these resources, and gather different sources of information like articles, pictures, podcasts, music, and videos. Make sure students gather enough information to complete three TASL Cards each.

30 minutes

# Optional Extend

Move to **slide 27** and display the photo of the monkey selfie. Briefly explain that in 2011, a wild monkey named Naruto took this selfie with a photographer's camera and remote shutter. The photographer, David Slater, dedicated time to acclimating a group of monkeys to his presence then placed his camera and equipment out for the monkeys to interact with.

Move to **slide 28** and introduce what happened next with the selfie. Explain that Slater published the photo, which then became a viral success. Wikipedia shared the photo on Wikimedia Commons because they believed it to be in the public domain. According to Wikipedia, Slater did not own the photo because he did not physically take it with his camera. The photo would normally belong to the person who physically took the selfie. However, Wikipedia argued that because Naruto is a monkey, she would not be able to own intellectual property, which meant that the photo is in the public domain.

Move to **slide 29**. Ask students to turn to their Elbow Partner and discuss the questions on the slide:

- Are Wikipedia's claims true? Who owns the photo?
- Who do you believe *should* own it?

**Teacher's Note: *Naruto v. Slater***

The court case *Naruto v. Slater* helps students explore the limits of copyright law, especially when authorship isn't straightforward. Feel free to leverage the humor inherent in this particular case. The following discussions should test students' reasoning despite the absurd details.

Students should eventually take note of the ethical questions raised in this case, which connect to the activity's learning objectives. Plan to have students discuss non-human ownership of intellectual property using this example first, and use this discussion to segue into a discussion of AI in creative spaces.

Move to **slide 30** and further explain the case to students. Tell students that Slater sued Wikipedia. Slater argued that he should own the photo because he set up the conditions for Naruto to take the picture. In response, PETA sued Slater on Naruto's behalf, claiming that the monkey itself should be able to own the copyright on the picture because it took the picture. Mention to students that any proceeds PETA won in the case were planned to go to the environmental conservation for Naruto's forest habitat.

Move to **slide 31** and review the results of the case. Tell students that the U.S. Copyright Office ruled that Slater did not own the picture because, despite creating the conditions for the picture to be taken, he did not own the picture itself. The U.S. Copyright Office also ruled that Naruto did not own the picture because only humans can own copyright. Further explain that as a result, the photo is currently considered *public domain*, which means it is free for anyone to use.

Guide students to understand that copyright currently requires human authorship. Move to **slide 32** and lead students to consider the "gray areas" of copyright by introducing the following questions about AI:

- What do you think about art or writing made with AI?
- Can you own something made by AI?
- Should AI creations be labeled?
- Should AI be able to reference and remix everything posted online?

Allow students a few minutes to think about these questions. Have them discuss the questions and their thoughts in small groups.

### Teacher's Note: Guiding the Discussion

Prior to student discussion or during the discussion, guide students to understand that the situation with AI is still developing and is heavily debated. The law states that only humans can own intellectual property, yet the law does not take into account new technology. Ask students to consider, given the considerations around intellectual property and AI, what values they want to focus on in their own creative work.

### Optional Anchor Chart

Consider adding some of the key discussion points mentioned to an Anchor Chart and using these points as a set of club norms for students to follow going forward.

15 minutes

# Evaluate

Move to **slide 33**. Remind students that they are creators. Encourage them to be intentional with what they create and considerate when they use things created by others. Reinforce the importance of creators having values such as respect, curiosity, and creativity. Facilitate a whole-class discussion by asking the question on the slide: "Consider everything you have learned about ethics, respect, and creativity. How will this knowledge change how you make and use different works?"

After a brief discussion, move to **slide 34**. Invite students to create their own portfolios using Canva. Guide students through the process of creating a portfolio by having them follow the steps on the slide:

1. Navigate to canva.com.
2. Select "Create," then "Websites."
3. Choose the "Portfolio Website" option.
4. Select a template.

### Alternative Portfolio Formats

If you prefer not to use Canva or want to give students other options, feel free to offer alternatives like the ones below:

- Physical portfolio (binder, paper, printed out images, etc.)
- Adobe Portfolio
- Squarespace
- Behance

Move to **slide 35** and have students begin creating their portfolio. First, ask students to create a title page that includes their personal logo, their name, and the type of work they do (e.g., journalism, 3D art, etc.). Invite them to include an optional tagline on the title page. Explain that a tagline is a phrase or slogan the portfolio owner uses to describe themselves and the skill on display, comparable to a social media bio.

Once students have created a title page, move to **slide 36**. Have students add at least one piece of work completed for the club to their new portfolios. Have students include the following for each piece:

- A photo or visual representation of the piece. If they are adding an article they wrote, have them add the text or a screenshot of the featuring page.
- A brief explanation of the creative choices they made when creating the piece.
- An attribution if the piece incorporates or transforms someone else's work.

### Teacher's Note: Licensed Work

Consider having students license the first work in their portfolio. In doing so, they would grant certain copyright permissions to the general public, allowing others to use the work. Have students use the Creative Commons license chooser to research and apply a Creative Commons or public domain license to their work, if they'd like.

If students prefer not to license their work, they can do nothing. If they choose not to, they solely reserve all rights to their work and do not grant permission for others to use it. This means that they have "all rights reserved," and they retain exclusive rights to the content.

Encourage students to add as many works as they would like to their portfolio. Help them understand that this portfolio should be used to document all of their creative works. Explain that their portfolio can preserve and showcase their creative work and help them with future career opportunities and interviews.

# Research Rationale

Research rationale for this resource is provided in the literature review, When "Journalism Kids" Do Better: A Reassessment of Secondary and Postsecondary Achievement and Activities.

## Resources


- CrashCourse. (2015, April 23). *Introduction to IP: Crash course intellectual property #1* [Video]. YouTube. https://www.youtube.com/watch?v=RQOJgEA5e1k
- CrashCourse. (2015, April 30). *Copyright basics: Crash course intellectual property #2* [Video]. YouTube. https://www.youtube.com/watch?v=Tamoj84j64I
- CrashCourse. (2015, May 7). *Copyright, exceptions, and fair use: Crash course intellectual property #3* [Video]. YouTube. https://www.youtube.com/watch?v=Q_9O8J9skL0
- Creative Commons. (n.d.). *About CC licenses.* https://creativecommons.org/share-your-work/cclicenses/
- Creative Commons (n.d.). Choose a license for your work. https://creativecommons.org/chooser/
- Creative Commons (n.d.). CC search portal. http://search.creativecommons.org/
- Justine M. (2023, November 3). Cet artiste transforme les Pokémon les plus célèbres en peintures de la Renaissance [This artist transforms the most famous Pokémon into Renaissance paintings]. Creapills. https://creapills.com/pokemon-peintures-renaissance-joccum-20231103
- K20 Center. (n.d.). Anchor charts. Strategies. https://learn.k20center.ou.edu/strategy/58
- K20 Center. (n.d.). Canva. Tech Tools. https://learn.k20center.ou.edu/tech-tool/612
- K20 Center. (n.d.). Collaborative word clouds. Strategies. https://learn.k20center.ou.edu/strategy/103
- K20 Center. (n.d.). Elbow partners. Strategies. https://learn.k20center.ou.edu/strategy/116
- K20 Center. (n.d.). Journalism lesson collection. Collections. https://learn.k20center.ou.edu/collection/4956
- K20 Center. (n.d.). Lines of agreement. Strategies. https://learn.k20center.ou.edu/strategy/165
- K20 Center. (n.d.). Mentimeter. Tech tools. https://learn.k20center.ou.edu/tech-tool/645
- K20 Center. (n.d.). Sketchnotes. Strategies. https://learn.k20center.ou.edu/strategy/2870
- K20 Center. (n.d.). Think-pair-share. Strategies. https://learn.k20center.ou.edu/strategy/139
- K20 Center. (n.d.). When "journalism kids" do better: A research assessment of secondary and postsecondary achievement and activities. Literature Review. https://learn.k20center.ou.edu/literature-review/4897
- K20 Center. (2021, September 21). *K20 Center 5 minute timer* [Video]. YouTube. https://www.youtube.com/watch?v=EVS_yYQoLJg
- *Macaca nigra self-portrait large* [Photograph]. (2014, October 29). Wikimedia Commons. https://commons.wikimedia.org/wiki/File:Macaca_nigra_self-portrait_large.jpg
- ricardquin. (n.d.). *The Scream by Edvard Munch (Spongebob parody).* Redbubble. https://www.redbubble.com/i/poster/The-Scream-by-Edvard-Munch-Spongebob-parody-by-ricardquin/107453110.LVTDI
- vidIQ. (2024, September 26). *Everything you NEED to know about NOT getting a copyright claim!* [Video]. YouTube. https://www.youtube.com/watch?v=z6sOGNjOmVU