A Framework for Analyzing ANY Copyright Problem

Work through the following five question in order to analyze a specific copyright problem.

I. Is the work protected by copyright?
   1. Is the work I want to use protected by copyright, or is it in the public domain?
   2. If I created it, do I still own copyright, or did I sign over rights for my intended use to someone else?

II. Is there a specific exception in copyright law that covers my use?
    Is my intended use covered by a specific exception to the exclusive rights in the copyright law, such as the one for libraries or for classroom performances and displays?

III. Is there a license that covers my use?
    1. Is there a Creative Commons license attached to the work? If so, can I comply with the terms of the license, or can I find another useful work that is CC-licensed?
    2. If affiliated with an educational institution, is there a license that governs how the copyrighted material I’m accessing through my library can be used? If so, can I comply with the license terms? If you are uncertain, ask your librarian for help.

IV. Is my use covered by fair use?
    Four fair use factors:
    1. The purpose and character of the use, including whether such use is of a commercial nature or is for nonprofit educational purposes;
    2. The nature of the copyrighted work;
    3. The amount and substantiality of the portion used in relation to the copyrighted work as a whole; and
    4. The effect of the use upon the potential market for or value of the copyrighted work.
    Transformative fair use (the “fifth factor”):
    Does the copyrighted material help me make my new point?
    Will it help my readers or viewers get my point?
    Have I used no more than is needed to make my point?

V. Do I need permission from the copyright owner for my use?
   1. If so, locate the copyright owner and fully explain your intended use in your permission request.
   2. If there is no response or the answer is no, reconsider your use of this work to see if you can make it a fair use, or consider using another work.

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