

COPYRIGHT EDUCATION PROGRAMS IN ACADEMIC INSTITUTIONS

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I. INTRODUCTION

The use of copyrighted material in higher education is indispensable. Copyright issues in educational institutions are to multiply in the digital age, so framing a copyright education program and a copyright policy that addresses fair use and educate all members of the academics is necessary for the future. Copyright law is no longer an arcane specialty to be taught only to the law students or lawyers. It is neither practical nor cost efficient to consult a copyright lawyer about every copyright issue. The time has come to expand the education curriculum to include copyright law to prepare for an increasingly complex future.

The copyright education program will make every body aware about copyright law, and increase the knowledge of teachers, students and general users about the proper use of copyrighted materials. The extent to which permission to use a material is sought should be a matter of copyright policy. The policy should delineate which materials require permission before copying and which one qualifies for fair use. For materials that fall somewhere in between, a fair use analysis should be made to determine if permission is needed.

This paper overview the components of copyright education program and reviews the basic best practices that can be used in establishing copyright education programs.

II. NEED FOR COPYRIGHT EDUCATION PROGRAM

Historically, copyright education developed from copyright management. Its purpose is to reduce the abuse of copyrighted materials and lessen the liabilities both institutional as well as individual. Many scholars

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advocate for broader discussion of copyright i.e., incorporating the social and ethical implications of copyright into its curriculum.¹

The introduction and application of information literacy and Internet has highlighted the need for faculty and students to broaden their knowledge that how information is produced and consumed inside and outside the educational institutions. Increase in online access to resources and services in universities and academic institutions have made these institutions as Internet service providers. Campus networks and systems are used by 45% of students for downloading of copyrighted material files. As Internet service providers they have to limit their liability from the unknown infringing acts of its users. Thus, copyright has become the center of the academic enterprise: from the teaching of course materials purchased, licensed, borrowed or downloaded; to the ownership and authorship of faculty research, etc.

The challenges faced by today's researchers and research environment can only be met by developing an arsenal of definitions, skills, questions, perceptions and guidelines. Institutions need *copyright literacy* to address social, political, and technical world in which information use takes place.

It has become important for every institution:

- To give sufficient knowledge of copyright to faculty about their own publications.
- To give knowledge of copyright to students for their work products.
- To give knowledge of copyright so that they become responsible researchers, creators, and authors.

III. WHY TEACH COPYRIGHT

The awareness of faculty and students regarding copyright not only reduces the legal liability of academic institutions, but also encourages them to be more responsible scholars and to think critically about the resources they use. Because of the rapid growth in digital technologies it is time to highlight the need to educate the general public about copyright.

¹ See, e.g., Barbara L. Ludlow, *Understanding Copyright and Intellectual Property in the Digital Age: Guidelines for Teachers, Educators and their Students*, 26 TEACHERS EDUC. & SPECIAL EDUC. 130 (2003).

Copyright education requires that a student must use the information and information resources ethically and legally. The teaching and learning of copyright focus on developing student skills for addressing legal requirements for the limitation of institutional liability. The copyright literate student understands many of the economic, legal and social issues surrounding the use of information and accesses and uses information ethically and legally. The copyright knowledge of the students should be developed to the extent that they may evaluate whether the software and services they use are legal? For it the students need a basic understanding of copyright law and its provisions. Educators need to know that how to incorporate those issues in the departmental curricula, syllabi and instructions².

In United States, the 1998 Digital Millennium Copyright Act was passed to limit the liability of academic institutions from the unknown infringing acts of its users. Later on in 2002, the Congress passed Technology Education and Copyright Harmonization (TEACH) Act. The TEACH Act addresses the needs of online educators and also provide a limit to the liability of academic institutions if infringing acts are discovered. However to claim such relief, certain conditions are to be met.

The TEACH Act requires that:³

- An institution institutes policies regarding copyright;
- Provide informational materials to faculty, students, and staff that accurately describe, and promote compliance with the copyright laws of the United States;
- Provides notice to students that materials used in connection with the course may be subject to copyright protection.

The TEACH Act moves further than the DMCA regarding requirements concerning copyright and the promotion of copyright in higher educational institutions. The TEACH Act not only requires articulated copyright policies by the educational institution; it also clearly requires that

² Association of College and Research Libraries (ACRL), *Information Literacy Competency Standards for Higher Education* 14(2000), available at <http://www.ala.org/ala/acrl/acrlstandards/standards.pdf>.

³ 17 USC S 110(2) (D) (i).

electronic transmission include a notice to students of the copyright status of the works used. Institutions have to meet these minimal legal guidelines to minimize legal liability.

In 2004, the Congress introduced Piracy Deterrence and Education Act of 2004 “to enhance general copyright knowledge, to enhance criminal enforcement of the copyright laws, to educate the public about the application of copyright law to the Internet, and for other purposes.”⁴ It was proposed to spend \$500,000 annually to establish a national Internet Use Education Program to increase awareness of infringement issues.

The social impact of copyright law is no longer just an interest of the librarian or the lawyer. Scholars and students are impacted by it. The research environment has become increasingly complicated through the use of digital information. Students need to acquire skills and knowledge to navigate in this environment without liability.

Prof. Jon M. Garon rightly said that:

The ethics of the law must be grounded in fundamental notions of justice and fairness, for without this, the rules devolve into conveniences which will be obeyed only when punishment is close at hand. If the only reason to respect copyright is to avoid being caught, it has outlived its purpose.⁵

The online universe provides students with access to a plenty of scholarly and popular resources. Student’s inability to comply with the copyright law or convention of attribution is due to lack of copyright teaching from faculty and the lack of guidance from institutional policies.

More and more students in the coming time may find them as subject to litigation brought by rights owners because of copyright infringement or illegal file sharing. The time has come that academic institutions must take

⁴ H.R.4077, 108th Congress (introduced in the House of Representatives, March 31, 2004), available at http://frwebgate.access.gpo.gov/cgi-bin/useftp.cgi?laddress=162.140.64.88&filename=h4077ih.pdf&directory=/diskb/wais/data/108_cong_bills.

⁵ Jon M. Garon, *Normative Copyright: A Conceptual Framework for Copyright Philosophy and Ethics*, 88 CORNELL L REV 1278, 1283 (2003).

on responsibility of creating copyright informed citizenry among their students.

A student must be taught to understand whether a use is legal or proper and he must also give attribution to the original author of the works he is using. Faculty must teach proper procedure of citation and the benefits of scholarly attribution. This will reduce the rise in cases of plagiarism.⁶ Prof. Garon rightly asserts, “the future development of copyright will flow from technological innovation, legal constraints, and social norms.”⁷

Faculty need a sophisticated understanding of copyright knowledge because many of its members use and make available to their students the third party developed course content. Till now the faculty avoided discussion on copyright education program, because they lack the expertise to address the topic.⁸

However, the growth of online education and instruction compel to focus on the application of intellectual property laws in distance education, particularly regarding the ownership of course materials. Faculty must have knowledge of basic copyright concepts, exclusive rights, fair use, authorship, work for hire, use of third party copyrighted work, exemption of certain public performances. Thus, there is an urgent need for professional development opportunities for faculty, administrators, and academic staff in copyright education.

IV. DEVELOPING SUCCESSFUL COPYRIGHT EDUCATION PROGRAM

To set the foundation for copyright literacy and copyright education programs, universities and colleges should develop policies for all constituents, i.e., staff, students and faculty. Crafting a copyright policy requires time and resources to consider salient issues and the positions of different groups. The ideal copyright policy should be accessible and easy to locate on the institution’s website.

⁶ See, Donald L. McCabe, Linda Klebe Trevino & Kenneth D. Butterfield, *Cheating in Academic Institutions: A Decade of Research*, 11 ETHICS & BEHAVIOR 219, 220-22 (2001).

⁷ Garon, *supra* n. 5 at 1284.

⁸ Steven Smethers, *Cyberspace in Curricula: New Legal and Ethical Issues*, JOURNALISM & MASS COMMUNICATION, EDUCATOR, Winter 1998 at 15,19-21.

Historically, “copyright management” or “copyright education” include suggesting methods, setting limits and standards for using third-party copyrighted works. Examples of these activities are:

- Providing guide and guidelines to users;
- Providing postings near photocopy machines that remind users that the material they are using may be copyrighted;
- Guidelines for using and requesting inter-library loans or reserves;
- Guidelines for computer use;
- Guidelines for making copies for class room use;
- Guidelines for using video in course instruction;
- Guidelines for users on how to get permission to use the work of others, etc.

Some of these activities are voluntary and some are mandated by the law. These activities are important for the daily use of third-party copyrighted material.

Basic steps for developing a successful copyright education program are as follows:

- Discuss concerns and issues with librarians, faculty heads, IP Law teachers, administrators and university counsel;
- Arrange meetings of vested parties (departmental & student’s representatives, information technology offices, librarians, administrators, university counsel, etc);
- Assess institutional needs, goals and concerns;
- Outline the approach, establish the process, plan for assessment of programming;
- Develop policies;
- Advertise and outreach to concerned (students, faculty, staff, etc.);
- Teach and deliver programmes;
- Assess programming; and
- Appoint copyright & research advisory committee.
- Cover these policies in student and faculty handbooks

The positive impact of these programs could be accomplished by offering incentives for further professional development in this area.

Administrators should be charged with setting the parameters to govern these policies. These policies should serve as reference points to manage problem when they arise. They are preventive measures that not only provide guidance but should also give procedures for adjudication.

The duties of copyright & research advisory committee range from overseeing the publication and distribution of materials on copyright, conducting workshops, policy development, assisting with faculty publications and patents, and making recommendations on copyright ownership questions.

The copyright education program should address various academic policies, like:

- Faculty ownership of course material, research and work for hire, etc.;
- Student ownership of course materials and research;
- University ownership of scholarship, course material, research or products;
- Internet and campus network use;
- Fair use guidelines;
- Software piracy;
- Specific Act (like US TEACH Act) guidelines;
- Reserve for print and electronic library and research materials;
- Academic integrity and plagiarism.

Policies should define the relevant issues and outline the consequences of violating policies. They should not live in a closed book or rarely accessed Web site. Institutional policies should be living documents that are printed in student and faculty handbooks, print on online syllabi for constant reference. It will be unfair to students to hold them accountable for policies that they cannot understand or do not know that they exist. Having students to sign and acknowledge that they have read and understand policies such as a *computer use policy to manage files sharing over campus networks* or *academic integrity policies* heightens their awareness and lessens cases of violations.

Various surveys have studied the student's behaviour and attitude toward uploading material and file sharing. They found that students have a

social pressure to upload files to sharing networks. Although, the institutions cannot stop student's file sharing activities, however the following suggestions may restrain such activities:

- Implement better technological controls into the hardware and software;
- Information programs for students about the financial and social impact of their behaviour;
- Develop and require a student to sign a "computer and Internet use" policy prior to receiving access to the Internet;
- Include statements informing the social and economic impact in hardware and software systems that facilitate file sharing of copy-protected media;
- Advise the Internet service providers to include copyright warnings and additional appropriate legal warnings.

V. WHO SHOULD TEACH COPYRIGHT EDUCATION PROGRAM

Copyright education or copyright management raise awareness of the issues surrounding copyright and teach proper use of copyrighted material and media. This copyright education may be passive or active.

Passive copyright education provides users with tools that, when combined with self-study and application, can lead to a deeper understanding of copyright. Some of these tools are:

- Web sites
- Guides
- Guidelines
- Postings and Notices
- Brochures and posters.

Active copyright education may come in following forms:

- Workshops
- Face – to - face classroom instructions
- Online course modules
- Tutorials.

The 2000 Report⁹ issued by a US Committee of national scholars made a call for broader copyright education. The committee could not decide on how extensive copyright education should be, and who should conduct the education.¹⁰ However in speaking of the importance of copyright education the committee concluded:

A better understanding of the basic principles of copyright law would lead to a greater respect for this law and greater willingness to abide by it, as well as produce a more informed public better able to engage in discussions about intellectual property and public policy.¹¹

Copyright education, information and instruction can be offered jointly by libraries and librarians, administration at the university level, information technology departments, and course faculty.

Copyright law is fundamental to the function of all libraries that have traditionally served as a clearinghouse for copyrighted works. By nature they collect copyrighted books, journals, magazines, pamphlets, films, videos, learning objects, personal papers, etc. Once these materials are collected, they are made available in accordance with the copyright law and managed by copyright policies. To carry out their mission, libraries make their users aware of the laws, including copyright.

There is almost daily growth in the technologies provided by institutions to students. Because institutional liability increases with the support of these technologies, academic administrators can support a comprehensive copyright education program.

Information technology departments are partly charged with developing technology fluency so they may also support. In addition to information technology departments that manage campus-wide computer networks, other offices that may address the subject of copyright can be technology transfer offices, and offices set up to address copyright permission for the use of copyrighted works.

⁹ National Research Council, *THE DIGITAL DILEMMA: INTELLECTUAL PROPERTY IN THE INFORMATION AGE* (2000).

¹⁰ *Id.* at 17.

¹¹ *Id.* at 217.

Faculty from several disciplines can address copyright and copyright related topics – for example, communications, computer science, ethics courses, research method courses and over all the intellectual property faculty.

Some other agencies that have a vested interest in copyright education may also help. For example, Library Association, Journalists Society, Broadcasting Society, Motion Pictures Association and various other collective societies. These associations provide guidance on the proper use of information through policy statements, conference presentations, and publications.

Other great resources are Rights holders' agencies. For example, associations representing book publishers, composers, software developers, filmmakers, musicians, and music publishers, etc. They work to protect their copyrights by providing suggested guidelines and procedures for users of their content and products.

To make the copyright education successful and conversant with law, the administrators must seek the professional help from attorneys specialize in intellectual property law. A successful program is where multiple entities, people and offices champion the cause of copyright awareness and education.

VI. WHAT TO TEACH

Some of the subjects that must be included in the course material are: Basic copyright law and copyright policies; Intellectual property rights; fair use; Exemptions; Permissions for use; Public domain; First sale doctrine; Cyber law; Cyber ethics; Piracy, Plagiarism, citation, and attribution; Proper use of copyrighted media and multimedia works; Consequences of improper use of copyrighted work; Copyright and the Internet; File-sharing, e-reserve. The Center for Intellectual Property and Dr. Kelley created a video that can be used in online workshops and classes.¹²

Other subject areas for instruction can be need for reform of the copyright law for protected works. Copyright education play a role in

¹² The Copyright Site, Teaching Ideas for Higher Education Faculty, available at <http://www.thecopyrightsite.org/teaching/highered.html>.

creating both the informed consumers and informed citizens who have a voice in the intellectual property policies that affect their lives. Copyright education create opportunities not only so that people can obey the law, but also that they can question the law when appropriate.

A simple understanding of the definition of copyright is no longer sufficient to navigate today's information landscape. Students and faculty need a functional level of copyright literacy.

The need to address fair use in higher education is acknowledged by the U.S Consortium for Educational Technology in University Systems (CETUS). CETUS proclaims:

It is urgent, timely, and in the best interests of higher education that our universities raise a coordinated voice to address the topic that is known as the "fair use" of copyrighted works. ...It arises because of the changing dynamic between the broad sweep of "intellectual properties" and the deployment of powerful and rapidly evolving communications technologies and infrastructures. These developments have already demonstrated their significant consequences for higher education and will have more pervasive effects in the future.¹³

13. [http:// www.cetus.org/fair4.html](http://www.cetus.org/fair4.html).