CopyRight or CopyWrong? Fair Use and Faculty Reserves

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CopyRight or CopyWrong? Fair Use and Faculty Reserves

Community of Scholars 2010

Presented by Linda Roscoe and Dianne Brown
Copyright 101

What is copyright?
• Right of an author to control the use of her/his work by others
• It protects the **fixed** expression of ideas (NOT the ideas themselves) in any medium
• Includes the right to reproduce a work
• The right to distribute copies
• The right to make derivative works
• The right to display the work
• The right to perform the work
What is protected by copyright law?

- literary works
- musical works, including accompanying words
- dramatic works, including accompanying music
- pantomimes and choreographic works
- pictorial, graphic, and sculptural works
- motion pictures and other audiovisual works
- sound recordings
- architectural works
How long does copyright protection exist?

- In general, published works created on or after January 1, 1978 are protected for life of the author plus 70 years.
What’s NOT covered by copyright, or what can be freely used?

- Federal government publications
- Works in the public domain
- Content in library databases; linked and not copied
- Open access materials
- Works consisting entirely of information that is common property and containing no original authorship
- Use of materials that falls under “Fair Use”
How does Fair Use apply?

- Fair Use allows users of copyrighted works to exercise some rights under certain circumstances without seeking permission or paying royalties. It allows many uses of copyrighted works for the purposes of teaching and research.

There are **four factors** to weigh in determining whether a use is “Fair” or not:
- Purpose and character of the use
- Nature of the copyrighted work
- Amount and substantiality of the portion used
- Effect of the use of the copyrighted work on the market value
Why is this relevant?

No one is really checking up on this right?

Why should we care about Copyright and Fair Use?
Georgia State case

• In April 2008, three publishers (Cambridge University Press, Oxford University Press and SAGE Publications) filed a complaint against Georgia State University regarding eReserves and Copyright. They were supported by the Association of American Publishers.

• This is the first case to be filed against electronic course packs
• GSU allows up to 20% of a printed work to be excerpted for Reserve.
• Publishers cite courses where there are 80, 72 and 34 readings for a single course.
• “The publishers provide no specific details or examples of professors linking to course material from their open web pages, or any information about specifically infringing behaviors within the course management system”
  – [http://www.library.northwestern.edu/blog/nulcopyright/2008/04/what_does_the_lawsuit_against.html](http://www.library.northwestern.edu/blog/nulcopyright/2008/04/what_does_the_lawsuit_against.html)
• Although the publishers claim that GSU has acted in excess, they give no boundaries for what they consider “acceptable Fair Use.”

• Assessment of risk is very real!

• Press release from the American Publishers Association: http://www.publishers.org/main/PressCenter/Archives/GeorgiaStateLawsuitRelease.htm
Where we stand: Lesley’s Course Reserves Copyright Policy

• Considerably more conservative than GSU

• Anything that the Library owns is considered Fair Use.
  – We use these items repeatedly without obtaining permissions from the Copyright Clearance Center (CCC).

• Similar policy for faculty-owned personal copies of texts
  – Doctrine of First Sale
• eReserves are provided through the Library and are password protected on the FLO catalog.
  – Reserves librarian monitors Copyright permissions

• If we scan a personal copy of an article, we must get Copyright permission for each repeat use.
  – Within three years of first use.
New procedure for book chapters

• If we **do not** own a book, we will scan 1 chapter/10% for eReserve.
  – First use remains free
  – Repeat use we must pay for permissions, just as we do with articles we do not own.
Copyright Clearance Center

• Costs vary for eReserve materials, based on length of article/chapter requested, as well as class enrollment.
• Library will pay up to $100 per course for Copyright permissions
• Any further Copyright costs must be paid for by the faculty member’s department
Need more information?

- http://research.lesley.edu/reserves

- Library Guide I have created and maintain with everything you need to know about Reserves and Copyright
Tools to use to evaluate Fair Use

• 1. Decision tree adapted from Tufts
  • [http://www.lesley.edu/library/content/decision_tree.pdf](http://www.lesley.edu/library/content/decision_tree.pdf)

• 2. Know Your Copy Rights
  • [http://www.knowyourcopyrights.org/](http://www.knowyourcopyrights.org/)
Q & A

Handouts with further information are available.

Slides from this presentation will be posted to the Reserves LibGuide under “Copyright and Fair Use.”