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Copyright in Academic Libraries: The Future Is Now

Julia Frankosky and Amy Blair

Back in the days of paper, copyright was registered, the symbol © affixed, and the author's copyright could be considered protected to the fullest extent possible. Copyright provides the creator of original works or the rights holder, like a publisher or corporation, with exclusive rights, such as the right to reproduce and distribute the work, the right to display the work, and the right to make future works based upon an original work. It was much more difficult to discover that your copyright had been violated. Imagine an analog world where computers take up the floor of an entire warehouse and communication is conducted via the telephone or letters sent in the mail. In this world, if someone managed to make copies of a book that you wrote and proceeded to sell them on a street corner on the opposite side of the country, the likelihood that you would learn of this copyright infringement is incredibly rare. With the rise of the internet and related technologies, it has become easier to share material with anyone, anywhere. Infringing on someone's copyright can now be done effortlessly and, in all likelihood, without realizing it because the internet has blurred the lines of copyright infringement in our minds (Colleran, 2003; Schneider, 2001). But it is also easier for copyright owners to discover infringement and seek restitution (Alsaffar, 2006).

The legal implications of what instructors and students do in the virtual classroom has been drastically amplified (Peters, 2011) with the increase in the availability and popularity of distance education courses, as well as the use of online components for in-person courses. With this increased liability for the academic institution, it is critical for colleges and universities to offer copyright education programs across campus in order to teach the campus community about copyright compliance. But how exactly does the institution offer such education? Who actually provides it? Where will people go when they have questions about copyright?

One option that is growing in popularity is to have the library, through the creation of the copyright librarian position, handle copyright issues and education. The library as the locus for copyright education makes sense as traditionally, libraries have been a centralized part of the institution (Colleran, 2003), and they have been working within the confines of copyright law for course reserves and interlibrary loan for decades (Graveline, 2011; Myers, 2005). It's also probable that the material that the faculty or student has a copyright question about comes from the library. Librarians have ethical and professional obligations to encourage access to information (Pressman, 2008; Russell, 2001) and the promotion of information literacy skills, such as the responsible and lawful use of information (Pressman, 2008; Vesely, 2006). Tasking a librarian with the responsibility to disseminate copyright information is a

logical move. Not to mention that when you have a question, you're far more likely to ask a librarian, since you know that they will either answer your question or direct you to someone who can help (Colleran, 2003). The broad campus reach of the librarian comes in handy when it comes to promoting the educational opportunities about copyright offered through the library and referring users to the copyright librarian for answers to their questions (Vesely, 2006).

By taking on the role of copyright knowledge center, the library is actively combating one of the biggest issues that they currently face: remaining relevant. With the widespread availability of information online, some argue that libraries are archaic, irrelevant institutions that serve no purpose in today's digital world. Libraries must work to reinvent themselves to prove their value to society and to show just how important they are (Sarno, 2010). Confusion associated with copyright is not going away, and if anything, it's spreading and becoming a larger issue every day. The offering of such a vital and useful service will improve the library's standing with the university as a whole as well as the administration, which will come in handy when it comes time for budget allocation. This service also minimizes the university's risk of litigation from copyright infringement, and the administration may be more likely to generously give financial support to the library (Vesely, 2006).

What Exactly Does a Copyright Librarian Do?

There is scant literature available on copyright librarianship. There are a few books that discuss copyright law and common questions and answers for librarians and only a handful of articles that delve into the how-to aspect of copyright librarianship; important things like what you should do and how to learn to do your job. Thanks to the digital age, there is a growing need for an established, official copyright librarian due to the increased complications and confusion about copyright. This change is reflected in recent job postings for copyright librarians, the offering of new courses on copyright issues in library school programs, the availability of copyright certification programs through professional associations, and it is slowly being reflected in the literature as well.

What sorts of activities can you expect to be responsible for as a copyright librarian? We reviewed nine articles that cover the topic of the activities and roles of a copyright librarian and they all agree that the primary purpose and responsibility of the copyright librarian is to teach the campus community about copyright, with an emphasis on copyright compliance. The educational programs offered by the copyright librarian should be aimed not only at the faculty and staff, but also at students, fellow librarians, and university administration (Alsaffar, 2006; Harris, 2010a; Myers, 2005). Because the copyright education offered will be presented to a diverse audience with different needs, it is crucial to tailor the copyright program for your audience. By talking about issues and scenarios that faculty and students are likely to encounter, they are more likely to pay attention and actually learn something about copyright (Peters, 2011). Rather than relying on just one delivery method, such as in-person workshops, current research recommends that you start with copyright basics and use a mixture of approaches for both in-person and online, on-demand education. Chances are high that your audience has zero knowledge of copyright law (Peters, 2011).

It's crucial that you are seen as the campus copyright authority. This involves getting people to know who you are and what you do. Simple things like distributing the Association of Research Libraries (ARL) brochure, *Know Your Copy Rights* (with your contact information inside) at faculty resource fairs or department meetings can get the word out. A more in-depth way to accomplish this is to offer presentations about copyright basics to various

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departments at the start of the semester (Vesely, 2006) and as the semester progresses, offer additional workshops and seminars for faculty and staff while also allowing people to make appointments for smaller in-person presentations (Myers, 2005; Vesely, 2006).

The important thing is to make copyright concise (Peters, 2011; Vesely, 2006). To reach faculty, staff, and students who are off-campus or have non-traditional hours, create online learning modules and websites about copyright. These websites should allow users to learn what they need to know about copyright quickly and on their own time, without feeling overwhelmed with too much information. Record short tutorials about copyright basics and have a frequently asked questions page with real life scenarios so that people can use these resources to get the answers that they need, when they need them, without having to dig through 20 pages of text or watch a three-hour lecture. In a pinch, you can also develop a simple library copyright website and link to other more established academic copyright sites, such as Stanford University's Copyright and Fair Use page and the Copyright Advisory Office at Columbia University. This is an easy method of promoting awareness without requiring you to reinvent the wheel.

While reaching out to faculty and students to teach copyright awareness, you could also use that time to teach another seldom understood, but equally important issue that is in a similar vein to copyright: plagiarism. In many cases of plagiarism, just like in many instances of copyright infringement in the classroom, students don't realize that what they're doing is wrong. Become embedded in a course (Alsaffar, 2006) and use that opportunity to teach students about respecting the intellectual property of others by not infringing on copyright or plagiarizing, as well as clarifying and proving examples of what sorts of activities to avoid (Vesely, 2006).

When in-depth questions arise outside the classroom, you should have multiple ways for individuals to get in touch with you. Email, telephone, online chat widgets, walk-in office hours, and a way for people to schedule one-on-one consultations should be made available. By offering many options for people to approach you with questions when they come up, it may encourage people to ask for help and less likely to decide that it'll just be faster and easier for them to just go ahead and do something that might end up infringing on copyright, such as scanning and posting an entire book on their online course page (Vesely, 2006).

Along with teaching copyright compliance and answering specific questions, you might also be responsible for negotiating licenses for electronic resources. When it comes to electronic materials, copyright is only a piece of the restriction puzzle, with licensing agreements and terms of use making up the rest. As someone who is trying to ensure that the library's resources can be used to the fullest educational extent possible, you may be charged with negotiating licenses for databases and journals to allow for fair use exceptions (Harris, 2010b; Neal, 2002).

The legal aspect of copyright is paramount, but if no one approaches to ask for advice, you're working in a vacuum. It's the training, guidance, and awareness aspects of the role that make it come alive. These are the skills and knowledge that the librarian brings to the position, not the attorney. Creating a robust training program and guidelines for faculty and students increases copyright awareness and, ultimately, compliance, particularly if coupled with a solid institutional copyright policy. Having robust copyright resources available on campus allows faculty to enjoy fair use without fear.

Academic institutions generally create a copyright policy to explain to faculty, staff, and students what rights to expect in regards to their works and the institution's overall stance on copyright. In the event that your institution lacks such a policy, then you, as the copyright librarian, may be required to draft one, or at the very least you should encourage the appro-

priate people to write one. Usually the institution's legal counsel, in conjunction with administration, such as the provost, work to write such a policy (Myers, 2005). Many institutions already have university-wide copyright policies in place, and if this is the case, then it is recommended by Peters that the copyright librarian meet with the Office of the General Counsel (the legal engine of the institution and the ultimate source for copyright legal opinion and guidance) to gain a better understanding of how the university interprets the policy so that when you receive questions, you're providing the correct interpretation (2011).

It's important for all copyright librarians to have a good working relationship with the Office of the General Counsel. In an academic setting it's often more effective to know the attorney than to be the attorney, particularly in working with faculty. In most cases, faculty would rather discuss their copyright issues at least initially, with the copyright librarian who can then advise if further legal counsel is needed. Working closely with the Office of General Counsel can also create a more seamless environment for copyright guidance. Vesely (2006) recommends that you meet with general counsel more regularly in order "to discuss activities connected to promoting copyright awareness on campus" to ensure that the copyright librarian is not overlooking any copyright issues. Ultimately, a good working relationship with the Office of General Counsel goes a long way towards establishing the authority of the copyright librarian.

Copyright librarians play an important role at their college and university, but what sort of educational background do they have and how do they end up as the copyright librarian? There is no standard background or path to become a copyright librarian. Some have law degrees, while others just have a master's degree in library and information science. Some applied specifically to be the copyright librarian, while others were working as a librarian and were reassigned to be the copyright librarian. It really depends on the institution and what sort of budget that they have. A larger budget allows a library to pay the higher salary for someone holding a law degree, but if you're working with an ever-diminishing budget, hiring someone new to be the copyright librarian might not be a feasible option, so in that case, reassignment is probable.

Learning the Ropes as a New Copyright Librarian

Where do you turn for help and guidance about copyright when you find yourself as the new copyright librarian? I asked myself this question when I was hired as the assistant copyright librarian at Michigan State University (MSU) at the end of 2011. I was fresh out of grad school and this was my first professional librarian position. I had always been interested in the law, but the closest thing I had to legal training was a paralegal certificate from a distance education program. Intimidated doesn't even begin to describe how I felt about this position. Thankful to have found a job that dealt with such an ever-evolving and interesting subject, but terrified at the thought of causing the university to get sued, I set out to get up to speed on copyright so that I could be competent at my job. This is a situation that many new copyright librarians find themselves in, whether they were hired specifically to be the copyright librarian, or if they were given a new assignment and basically thrown into the position: how to get up to speed, quickly.

My situation is a bit unique since I had the copyright librarian, Amy Blair, available as a resource. But if you're not as lucky as me with an in-house copyright librarian expert, you have to do the next best thing: build your own network of copyright librarians/librarians interested in copyright. Attend conferences and start networking; you'd be surprised how

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many people are active in copyright once you start looking. The Copyright Education Subcommittee of the Office for Information Policy (OITP) in the American Library Association is a good place to start looking for contacts. Don't be afraid to speak up about your position. Being vocal to others about what you do may enable you to find contacts through others that you would otherwise have been unable to meet.

Networking and being able to discuss copyright issues and questions with others in your field is great, but you also have to build up your own knowledge about the topic. You can accomplish this in a couple of ways: formal education and self-study. The obvious way to get an education about copyright is to go to law school and get a law degree, but what if you don't have the time and money to invest in such an endeavor? Courses about copyright issues for librarians are slowly seeping into library school curricula. In the summer 2012 semester, the University of Illinois Urbana-Champaign began offering a copyright course: Digital Copyright and Licensing: Legal and Policy Issues for Librarians (University of Illinois Urbana-Champaign, 2012).

Copyright courses in library and information science programs are still rare, so it might not be possible for you to take one. However, you do still have some options for formal education in copyright. There are two copyright certification courses offered by different groups. Offered twice a year, a certificate in Copyright Management and Leadership is offered through the University of Maryland's Center for Intellectual Property. I am currently enrolled in this program based on recommendations that I have received from other copyright librarians. The Special Libraries Association has also partnered with Click University to offer a Certificate in Copyright Management program.

These copyright certificate courses can be rather expensive and are only offered at select times of the year, so if you need to get up to speed quickly and on a budget, self-study is the way to go. There are many books available on copyright for librarians and copyright for academics. These books provide a general overview of the basics of copyright, common questions that you might see, and their answers. One book that I've found to be particularly helpful is *Copyright Law for Librarians and Educators* by Kenneth Crews, the director of the Copyright Advisory Office at Columbia University. It presents a great explanation of copyright law and then elaborates on understanding and applying copyright exemptions that libraries and educational institutions can enjoy.

Since copyright and copyright exceptions like fair use are continuously being shaped by the outcomes of court cases, it is important to remain current on new developments in this area. Books really can't be published fast enough to keep up with all of the new developments, so to stay informed, read blogs. Kevin Smith, the director of Scholarly Communication at Duke University, maintains the blog "Scholarly Communication at Duke" (Smith, n.d.) which covers topics ranging from copyright to scholarly communication. I've found the "Law Librarian Blog" (Hodnicki & Giangrande, n.d.) does a good job covering news about copyright issues for academics and libraries, as well as other legal issues that might impact academics.

If you're not one who learns by reading alone, you should also be on the lookout for webinars and webcasts about copyright. The ARL periodically offers webinars about applying fair use, and they usually start out with nice overviews of copyright basics before they delve into more detailed areas of copyright. Some of these recordings are available on ARL's YouTube channel for on-demand viewing.

Now that you know how to get started with learning about copyright, what sorts of things can you expect to encounter as a seasoned copyright librarian? In this next section, Amy Blair will discuss her experiences in copyright over the past five years.

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Amy Blair, the Experienced Copyright Librarian

I began as copyright librarian at Michigan State University in 2007, having inherited the assignment, as is all too common, when the other guy left. At the time of the additional assignment, I had 21 years of experience in the library profession and was familiar with copyright basics and electronic resource licensing practices. I was able to consult frequently with my predecessor, take online workshops, read books on copyright, and made the acquaintance of our copyright/licensing attorney in the Office of the General Counsel in order to get up to speed with copyright. The copyright assignment was 10 percent of my time but it quickly became apparent that with the rise of new technologies and electronic delivery methods, this was far more than 10 percent.

A loose coalition was then formed among those involved in other facets of copyright on campus—MSU Technologies (our intellectual property arm), MSU Course Materials (centralized course pack creation), and myself as the copyright librarian. We held joint workshops, gave presentations at departmental faculty meetings, staffed displays at faculty orientations, and referred individual queries to the appropriate arm of our coalition. We also jointly sponsored webinars and webcasts from Academic Impressions (an organization that provides educational programs for higher education professionals) and other outside agencies. Given our piecemeal staffing, this was far less expensive and more efficient than developing these in-house or offering more face-to-face workshops as part of campus and library continuing education for faculty and staff. I have found that copyright tends to be of the “I-need-advice-now-because-I-want-to-do-X-and-that’s-why-I’m-calling-you” variety. Face-to-face campus-wide workshops on copyright were not all that well attended. The coalition worked well for several years and provided a semblance of a united copyright front on campus.

Over time, it became apparent that at a university of our size, we needed to do more to promote copyright awareness and training. There was and is much to be done. We already had the website, a rudimentary copyright course in our ANGEL learning management system (a website used to facilitate online courses), small pieces of staff and faculty time and the Course Materials Program had already been moved to the library in 2010. We needed a library office of copyright but needed to create this as simply and efficiently as possible. We had the pieces and it was time to put them together.

A proposal was put forward in 2011 to combine the efforts of the copyright librarian, with that of a new assistant copyright librarian, and staff from the course materials program to serve as copyright consultants. In this manner, we created a full-time position, shared by three people. The MSU Library Office of Copyright was launched in January 2012 just in time to promote the new Association of Research Libraries Code of Best Practices in Fair Use for Academic and Research Libraries. We are working on multiple fronts: revamping our website, surveying other university copyright offices to determine their services, developing library guides for copyright, launching a copyright blog and planning an online course in copyright to be offered in Desire to Learn, our new learning management system. We are also involved in support and training for the writing management tool Turnitin, which helps instructors detect plagiarism in students’ papers, which was new to MSU for fall semester 2012.

The Future

The future of the Library Office of Copyright and that of copyright librarians is endless. New technologies and delivery mechanisms increase copyright and intellectual property con-

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siderations in our digital age. There is also the arena of licensing and the role that plays in the use of digital materials from publishers in online courses, electronic reserves and course packs. Scholarly communications and the open source movement, which encourages content creators to freely share their works with others for reuse, distribution, and modification, are other growing areas that are of interest and have a great impact on copyright. A number of academic copyright offices are already involved in scholarly communications and I can see this as an area of interest for us at MSU. Truly, the future of copyright is now! It doesn't take much to get actively involved and there are many routes to success in an area of great impact to all of us in the information profession.

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