

I. Topic

Our discussion explored digital libraries and the complexities of copyright laws in the digital age. We presented several articles for our classmates to read and asked them to focus on the questions they found most thought-provoking for the discussion posts.

II. Article and Discussion Summaries

A. Copyright overviews

We began by providing two overviews. The first was Pamela Samuelson's *Copyright and Digital Libraries*, published in the "Legally Speaking" column of *Communications of the ACM*, Vol. 38, No. 3 (1995). Samuelson holds joint appointments in the Schools of Law and Information of the University of California at Berkeley, and although her essay is fourteen years old, her thorough history of copyright law provided a solid foundation for this discussion. Samuelson traces the origins of American copyright laws to the British Statutes of Anne and emphasizes that the intent of the original statutes was the promotion of learning and scholarship. Thus, incentives to create are a means of encouraging access to information rather than the goal of copyright law. Samuelson emphasizes that librarians must be activists to promote access to information, and that we must be knowledgeable about copyright to be able to do this effectively.

Several students echoed Samuelson's emphasis on the importance of copyright knowledge for librarians. One suggested that creators and users will both have to yield some rights in order to facilitate the exchange of information in our society, and another felt that copyright currently favors publishers to the detriment of users.

The second overview was *The Sirens of Pirate Bay*, Martin Bossenbroek's keynote address to the International Association of Music Libraries, Archives and Documentation Centres from July 2009. Dr. Bossenbroek discusses the ways that technological changes cause shifts in the symbiotic relationship between the right of intellectual property and the right to information. He finds librarians holding a middle ground, supportive of the rights of creators while struggling to provide the greatest access to the greatest number. Meanwhile, on the one side, rights holders push for strengthening of copyright laws and, on the other, access advocates call for their loosening or outright abolition. Bossenbroek offers two paths for digital libraries: either track down all rights holders or negotiate with collective rights management agencies.

One discussant felt that tracking down each contributor would not generally be feasible for digital libraries, citing personal experiences at her own archive. Several echoed Bossenbroek's depiction of librarians as situated "between a rock and a hard place."

B. Copyright disclaimers

San Diego Public Library, Digital Library: Copyright and Conditions of Use
<http://www.sandiego.gov/public-library/services/diglibrarycopyright.shtml>

This webpage presents a clear picture of the copyright and conditions of use for the San Diego Public Library's Digital Library. It includes general information, conditions of use, U.S. Copyright Law, how to cite materials, and contact information. Perhaps the most important part of this website is the paragraph that details the nature of the collections and the copyright issues associated with the digital library, namely that the Library provides copyright information as a service and that, ultimately, responsibility for proper use rests with the patron.

UF George A Smathers Libraries Digital Library Center: Rights & Responsibilities
<http://www.uflib.ufl.edu/digital/procedures/copyright/>

This website is another example of a digital library's statement of rights and responsibilities for using their digital collections. The site discusses the library's observation of the US copyright legislation as well as that of other countries for foreign materials. Users can also find form request letters and other copyright resources. This site, more so than the first example, offers little on-site assistance and leaves the responsibility for following copyright on the shoulders of the user.

We chose these two websites as examples of the efforts that libraries are making in regards to copyright issues. We asked our classmates if these digital libraries were doing enough to adhere to copyright laws. Most students believed that digital libraries were doing their best in terms of upholding copyright, albeit in ways individual to each library. Other people expressed initial doubt about the strength of the policies, but later changed their minds, believing that it isn't the library's responsibility to enforce the law; rather, it is the responsibility of the patron to follow the law. Libraries should make copyright information available to help patrons understand the complex issues, but libraries shouldn't police patrons.

Several students also commented that the San Diego website was more informative and explicit than the UF George A Smathers Libraries; specifically the statement on the SDPL site that not all materials are in the public domain. Overall, our classmates felt these two examples of copyright disclaimers were well done and that libraries should post such information without feeling compelled to try to oversee how patrons use the digital materials.

C. Orphan works and copyright

<http://www.copyright.gov/orphan/>

This article was but a briefing about the orphan works problem and what is being done to solve it. At its core, the Orphan Works Act of 2008 is a way for institutions to use and allow access to millions of items that are unmarked in terms of copyright ownership providing that the institution has made a 'good faith' effort to find the copyright owner and was unsuccessful in locating one. The Orphan Works legislation is still sitting in congress awaiting final resolution due to the lack of detailed requirements concerning what it means to conduct a 'good faith' diligent search. Primary supporters of the act are mainly public institutions who care for records and filmmakers, with those opposed to the act affiliated with fine arts and photography organizations.

The discussion generated by the Orphan Works article supported what the act is trying to accomplish and felt that the 'good faith' effort was a justified procedure in permitting access to orphan works. Of interest were the few opinions that recommended a shorter length of

copyright term from life of the creator +70 to something more along the lines of the original copyright length but shorter still: 5 years for unmarked works.

D. The Google Books Project.

Google Library Project: Following the Copyright Debate a paper by Anant Kaushik and Nishant Prakash presented in the National Conference on Intellectual Property Rights, organized by the Indian Institute of Technology in 2008, published by the Icfai University Press in 2009.

<http://proxygsu-vall.galileo.usg.edu/login?url=http://search.ebscohost.com/login.aspx?direct=true&db=a9h&AN=36350168&site=ehost-live> (Galileo password required)

Google Book Scanning Project Gains Three Major Tech Opponents an article by Alex Pham published in the Los Angeles Times on August 21, 2009 in the business section.

<http://www.latimes.com/business/la-fi-google21-2009aug21,0,4130944.story> Google Library

These two articles on the Google Library Project Lawsuit were selected for discussion. This case is an illustration of how technological advances (here, the digitization of materials and accessibility through the Web) have challenged the definition of “fair use” and infringement in copyright law. The Association of American Publishers and The Authors Guild filed the suit accusing Google of copyright infringement and sued for compensation. Google’s mass digitization of books from five major libraries allowed snippets of copyrighted text to be searched and displayed on the Web to entice the reader to purchase the text or borrow the text from the contributing library. The settlement between the parties allowed the authors and publishers to receive 70% of the monies from the sale of the books and Google to receive 30%. The settlement is being challenged by a high-profile group that includes Microsoft Corp., Yahoo Inc., Amazon.com, and The Internet Archive.

The articles generated several responses during the group discussion. Some of our classmates had accessed Google Books. Selected comments from the posts: 1. “I think Google Books has made me more likely to visit a library for a book, or purchase the book itself.” 2. “On the one hand, people will have access to books they otherwise would never have access to, but on the other, Google a HUGE corporation, now owns them.” 3. For “...rare academic titles [that] may not survive a weeding process...Google Books [will have] played a part in preserving these works.” In general, this group perceived the legal settlement as a fair arrangement for the user and authors.

Discussion of another copyright lawsuit involving a local university was introduced to the discussion. Oxford University Press, Cambridge University Press and publisher SAGE has filed suit against the Georgia State University alleging the university encouraged professors to distribute digitized copyrighted material through e-reserves and WebCT without first seeking copyright permissions.

Several of our classmates that worked with reserve materials shared their experiences with faculty that either did not understand or care about copyright limitations on the use of materials. There was a general consensus that the burden of responsibility for copyright compliance remains with the instructor (or student) using the materials and that the new e-

reserve guidelines generated as a result of the GSU lawsuit reinforced this concept. Several respondents recognized the need for librarians to be well-versed in “fair use” and copyright compliance in order to better inform and serve their patrons.

Sony Announces Reader Daily Edition, Free Library Ebook Checkouts posted by Nilay Patel in the Engadget segment of the AOL.Tech Website.

<http://www.engadget.com/2009/08/25/sony-announces-daily-edition-reader/>

This new wireless reader can link with a library and digitized books can be “checked-out” and read through the unit via a license agreement with the sponsoring library.

This article did not generate a discussion.

Group Urges Copyright Changes an article from page 14 of the July/August 2008 issue of The Information Management Journal. Available online:

<http://proxygsu-val1.galileo.usg.edu/login?url=http://search.ebscohost.com.proxygsu-val1.galileo.usg.edu/login.aspx?direct=true&db=a9h&AN=33382280&site=ehost-live>

This article was selected for its brief overview of the recommendations made by the Independent Section 108 Study Group to libraries, archives, and museums regarding copying and digitizing copyrighted materials and born digital materials. The recommendations will serve to guide future legislation. They recommend that museums be eligible for Section 108 exceptions, and recommend new exceptions for libraries and archives will be needed to permit preservation copies for fragile or “at risk” materials, copies of public websites and online content, and copies of born digital materials.

Our classmates agreed with these recommendations from the 108 Study Group and were very much aware of the complex nature of migrating digitized materials in a world of ever-changing formats. It seems clear that digital information will require the development of “an entirely new preservation strategy.” Less restrictions on making multiple copies can insure the survival of these materials and help libraries, archives, and museums preserve our cultural heritage.

E. Additional resources

You-Tube: A Fair(y) Use Tale

http://www.youtube.com/watch?v=CJn_jC4FNDo

This video was provided as a primer on copyright with focus on what is meant by ‘fair use’ of copyrighted works. The video itself is an example of ‘fair use’ in that it uses ‘snippets’ of Walt Disney cartoons (which are heavily copyright protected and strictly enforced) to explain the concept of ‘fair use’.

There were no questions affiliated with this video but it generated two positive responses that summarized how the video helped them to understand copyright law and fair use in layman’s terms.

Our group chose two sources to include in our discussion so that our classmates could refer to them to better understand the basic rules and guidelines for copyright laws and fair use.

Although neither was mentioned specifically by name on the discussion board, we hope that they both served as aids in strengthening knowledge bases for the discussion and for future use in real-world situations.

Circular 21

<http://www.copyright.gov/circs/circ21.pdf>

The first guideline provided was Circular 21. Circular 21 included information on important legislative documents related to reproductions produced by educators and librarians. The various sections covered exclusive rights in copyrighted works, fair use, reproductions, infringement liability, and guidelines for recording off-air broadcast programming to be used for educational purposes.

Teacher's Guide to Fair Use and Copyright

<http://home.earthlink.net/~cnew/research.htm#Fair%20Use%20Matrix%20for%20Teachers>

The second source provided was a website, A Teacher's Guide to Fair Use and Copyright that lists helpful information for what its title suggests. The site begins with defining copyright and fair use and notes that copyright laws do not cover facts and ideas, along with suggestions on how to qualify one's own work for copyright protection. The next section covers seven categories the copyright law covers. Fair use is discussed with four standards to follow to qualify work for fair use exemption, one's professional responsibility to upholding fair use rules, and a fair use chart is also provided for teachers and educators to keep for future reference.

III. Questions and Future Considerations

It was clear from the discussions that our classmates had encountered copyright questions and witnessed violations in their library work, not only in the realm of digital resources but also in dealing with physical carriers as well. There was a consensus that librarians needed to stay abreast of the laws and endeavor to remain in compliance, along with an acknowledgement that the complexity of the law might make this difficult. All participants recognize that copyright issues will continue to impact not just digital libraries but all areas of librarianship. The ease with which digital resources may be duplicated and the rise of places where some resources may be freely shared seem to have muddied the issue for our users. It is thus both more necessary and more difficult than ever to educate our patrons about the legal and ethical aspects of information sharing in the digital world. How libraries can do that, and how we can influence the law so that it supports our mission, are questions for future exploration.