

Hooking Your Audience on Copyright

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All of us who teach copyright have been confronted with the person who says sheepishly, “I know I *should* know about copyright – I’m probably doing everything wrong and could go to jail!” This rueful self-declaration is really a way of saying, “Copyright has never been important to me, and I don’t take it very seriously.” But those of us who teach copyright know it’s actually both important and really exciting – we just need to communicate that excitement to our audience.

Once we’ve overcome that “taking my medicine” attitude, and our audience believes copyright might be interesting, the real work begins: Connecting the audience with the parts of copyright that are most useful to them, and in a way that establishes a structure for long-term retention and growth.

I. The Problem(s)

A. Diverse Audiences

Figuring out how to overcome the “copyright has never been important to me” hurdle requires an audience-centered approach. But librarians face an uncommonly diverse range of audiences that for some varies from day to day.

One thinks of academic librarians as the most likely to teach copyright, and academic librarians have extremely diverse audiences – from undergraduate students to faculty and every academic rank in-between, across all disciplines. Academic librarians also routinely educate administrators and staff, and occasionally members of the public, visiting K-12 students, and others who might interface with or visit the university.

School librarians in K-12 environments are *also* teaching about copyright. First, to students of all ages; second, to fellow educators and teachers within the school or district; and last but not least, to administrators and staff. Copyright education within K-12 environments is particularly common within library and computer programs, but it is not limited to those programs. Indeed, school librarians are often called upon to support and educate students in content creation and accessing third-party content, whether students are simply accessing content for research or pleasure, or whether they are engaging in creative projects, from music and art to PowerPoint authoring.

Public librarians are perhaps the librarians we least consider as “copyright educators,” but in fact there is tremendous need for copyright education within public libraries. Authors, artists, and innovators, as well as educators and youth, all frequent public libraries, and could all benefit from information in a number of related areas: copyright, fair use, public domain content,

using Creative Commons content and licensing your own content, licensing, and digital platform publishing on YouTube and Amazon.

Even special libraries offer programming opportunities, since almost all organizations large or specialized enough to support a library are engaging in accessing, using, or producing copyrighted content. And as in academic environments, K-12 schools, and public libraries, very few other entities are both experienced in copyright and poised to offer education about it.

This diversity of audiences constitutes a sort of embarrassment of riches. It's wonderful to have so much opportunity, but how can we actually make effective use of the rich opportunities for programming and education present in libraries? More specifically, how can we develop programming in such a (seemingly) esoteric area as copyright, for audiences that range so broadly in discipline, experience, and learning objectives?

B. Topical Tensions

The second challenge for copyright educators in librarianship is that, frankly, many of our core goals are in tension with one another – or, even if not in actual tension, all too easily perceived to be in tension.

For instance, we want people to care about copyright, so we talk about the more extreme aspects of copyright – copyright terms, statutory damages, outrageous or absurd prosecutions – but that scares people, which is counterproductive. We *want* people to feel empowered and aware of their rights, and yet the very act of teaching them about copyright and raising their awareness of it often engenders guilt or anxiety. We face similar risks when we teach people about the weirder aspects of copyright: internal inconsistencies, politically motivated sections of the statute, provisions so broad they are effectively unenforceable, and unknowable copyright statuses. This level of familiarity tends to breed contempt for copyright, which isn't helpful to people in protecting their own rights or managing their own risks. Indeed, the maxim that a little knowledge is a dangerous thing is as true in copyright as it is in any discipline. How can we balance passion and knowledge, versus risk aversion and dangerous contempt?

We also want to politicize people to become aware of both the absurdities and the exploitations within copyright, but we also need people to appreciate the ways they themselves might benefit from or use their rights within copyright. We want them to exercise and advocate for their own rights, within contract negotiations, in using open access and fair use, and calling for copyright reform. But those rights are their own rights as users and as creators. In fact, when we talk with someone about their own rights as a user (fair use, de minimis, first sale, etc.) we simultaneously are talking about their rights as a creator – necessitating a balance in tone that conveys multiple angles at the same time. How can we balance practical awareness of rights as a user with practical awareness of rights as a creator?

Moreover, as librarians we have our own interests, both as custodians of library collections and as educators of users. As a profession, we support open access, open licensing, and other systems that tend toward more flexible and simpler sharing of information. However,

that does not mean that these are always the right answers for individuals in all of their situations. Librarians' interests as activists and policy-makers may not necessarily align with a particular individual's interests in marketing their own work, or aggressively policing it. How can we balance our own advocacy interests with our duties as educators?

Finally, we have the conflicts inherent to any instructional program. We need to tell a coherent story and communicate knowledge, the right knowledge, in the right amounts – not too much, not too little – and still meet the basic pedagogical goals of being interesting and absorbing and having what we teach be retained and, ideally, put into practice.

For all these reasons, developing the right instructional posture can be challenging.

II. SOLUTIONS : Finding the Hooks and Telling a Story

So librarian copyright educators have two key problems: The diversity within our audiences that require us to constantly shift our content to make it relevant and compelling to our audiences, and the tensions inherent in teaching copyright that make it sometimes challenging to adopt a unitary instructional posture.

The trick is to find the hooks for that particular audience, and then pull together a coherent story for that audience.

Finding the hooks means analyzing the audience to understand their particular interests and perspectives, and figuring out what take-home points will meet those interests. This requires looking at what is distinctive about a particular class of students, as well as remembering what almost all students (copyright laypeople) have in common.

Almost all audiences have two things in common relating to copyright. First, that *everyone* – from the youngest kid able to hold a crayon, to the parents who document every move that kid makes – is a copyright holder. Copyright is literally everywhere, which means that everybody has some skin in the game. They just need to know it. The second thing that most (not all) people have in common is a lack of awareness or concern about copyright. Most people aren't aware they own copyright, or use copyright, or should care about copyright. They will have a range of diffident emotions, ranging from a vague sense of guilt that they “could go to jail” (often ill-founded, based on activities that are actually wholly lawful), a vague sense of self-righteousness that they are *not* infringing copyright (also often completely ill-founded, based on deep misunderstandings of what is or is not even copyrighted), or a vague sense of contempt for copyright. A key challenge, therefore, is to find the copyright connections that will get people to care about copyright at all. This can be easy if they already have strong connections with copyrighted works, but it can be more challenging if their connection with copyright is less personal.

Another key challenge is to provide people with something they will actually use – not theory or copyright 101, but copyright that is tailored to their interests. This is not hard, because copyright is so diverse and broad that everyone has a stake in it. Nevertheless, it does require understanding the audience. Because copyright is fundamentally about *works*, one approach is

to look at what works they create or use, and why and how. The works they create or use vary according to discipline. The ways in which they market those works, or use other works – the *how* and *why* – vary according to their career stage and their role in the creation.

So almost any audience can be assessed along this matrix, helping a copyright educator find common approaches to different kinds of audiences.

	Type of Works Created or Used	How Used & Why
Discipline: _____		
Career Stages, Publishing Roles, Practitioner Spectrum: _____		

Figure 1. Audience assessment matrix: Figuring out what will hook their interest.

The second challenge is to tell a coherent story, when we already have so many internal tensions to our story. Here, the motto “If you can’t beat ‘em, join ‘em” can become your mantra. Copyright instruction can’t actually eliminate the internal tensions and contradictions, so instructors must embrace them.

In copyright, the core of our story is often about nuance and balance; complex perspectives that may not inspire passionate interest and are sometimes hard to convey well. However, it is exactly this complexity that lets us balance the numerous tensions otherwise present in copyright education. Ultimately, embracing the tensions help instructors deal with the ambiguities, and actually helps students, by eliminating the idea that there are simple answers.

Consider these different approaches:

Simple and Clean (but oversimplified)	Complex and Nuanced (but more accurate)
Copyright is a form of incentivization for creators.	Copyright balances incentives for creators with freedom for users.

Copyright damages can be extraordinarily harsh.	Copyright has extremely harsh penalties, but is also extremely leaky, with robust exceptions and limitations.
Fair use and other limitations protect users of copyrighted works.	Every creator is also a user, and so everyone benefits <i>both</i> from copyright and from robust limitations and exceptions.

Figure 2. Alternate approaches to copyright “facts”.

The versions on the right are all longer, but they are more accurate in capturing the spirit of copyright as well as the letter of particular doctrines. Just as importantly in the context of a copyright class, the balance helps the instructor and students tell a coherent story, and construct a framework on which the individual facts about creator rights, copyright damages, and fair use will fit.

A. Finding Hooks Across Disciplinary Differences

Disciplinary differences are the first and most obvious distinction in types of audiences. It’s critical to assess the audience and tailor examples, exercises, and the overall content of the session to that audience.

Within academia, we commonly think of academic disciplines in terms of broad categories – arts and humanities, social sciences, sciences, and professional programs. Those broad cuts, however, disguise enormous variations among the myriad sub-disciplines. “Arts and humanities” alone includes every class of copyrighted work in Section 102: Literary works, dramatic works, musical works, sound recordings, motion pictures and audiovisual works, choreographic works, architectural works, and pictorial, graphic, and sculptural works. Each of these classes of copyrighted works has statutory specifics, doctrinal distinctions, professional norms, and industry practices. Disciplinary genres within the copyright work classes further inflect practices.

Analyzing an audience’s discipline(s) – what works they’re producing and using, and how and why they are using them – provides the first pass at finding relevant examples and material. A musical audience will be able to relate to the example of transformative use in music (2 Live Crew’s parody of “Pretty Woman” in *Campbell v. Acuff-Rose*) while a literary audience might benefit more from a literature-based example (e.g., Alice Randall’s parody of *Gone with the Wind*, in *Suntrust Bank v. Houghton Mifflin Co.*).

Discipline-based analysis also provides a series of ready-made topics and cases of interest. Instructors can develop short lists of cases and doctrines in various academic disciplines, enabling them to easily tailor discussions with their audiences. Here are a few:

Book-based disciplines such as history: Publishers often provide substantial publishing contracts, relative to papers, and every author who publishes a book should understand their contract and be able to negotiate relevant portions of it – including, for example, permissions and the option to rely on fair use. Permissions can be a really significant undertaking for book authors, since a book can include many different excerpts. The same substantive legal issues – are screen captures fair use? Is this work public domain? – will often apply to papers in the same disciplines. Copyrightability of ideas is another key issue, and examples from published books are always popular – for example, *Rowling v. RDR Books* (SDNY 2008), delineated what was and was not fair use in a Harry Potter encyclopedia

Science: Scientists and science faculty classically publish research articles, and the images they use are frequently their own creations. Their articles are often submitted through online forms that increasingly incorporate copyright assignment agreements, affording them little or no opportunity to negotiate rights. In this situation, scientists need to understand the contracts they're "signing," and open access options.

But scientists and science faculty also publish a variety of secondary and tertiary works, such as review articles, textbooks, and encyclopedia entries. These works often incorporate third-party content and involve negotiable contracts. Scientists in these situations should know about the STM Permissions Guidelines¹, which permit re-use and publication of single figures from participating STM members, without payment of fees.

Scientists and social scientists also often raise questions about copyrightability, and whether they can modify existing figures or graphic models. *Ho v. Taflove* (7th Cir. 2011) is an excellent case discussing the copyrightability of ideas in a science context, and presents a situation that involves faculty in the same department in the university, with graduate students switching labs, that will feel perilously familiar to many scientists.

Arts: Artists are routinely concerned with licensing, employment contracts, and distribution channels – the business side of creative markets. They also focus on questions of copyrightability, fair use, and other limitations.

Within the various art fields, there are numerous specific exceptions. For instance, photographers may be interested in Section 120 (which permits photography of architectural works even if copyrighted) as well as cases relating to works of photography. *Leibovitz v. Paramount Pictures Corp.* (2nd Cir. 1998) is a fun fair use case involving Annie Leibovitz, a high-profile photographer, and a parodic movie poster for "Naked Gun: The Final Insult 33 1/3". *Harney v. Sony* (1st Cir. 2013), a case about recreated documentary snapshot, offers an excellent opportunity to touch on copyrightability. The ways that copyright connects to privacy rights and rights of publicity are also likely a topic of interest; *Monge v. Maya Magazines* (9th Cir. 2012) offers an excellent discussion opportunity. *Drauglis v. Kappa Map* (D.D.C. 2015) is an excellent example of creators misunderstanding their own Creative Commons licensing.

¹ <https://www.stm-assoc.org/copyright-legal-affairs/permissions/permissions-guidelines/>

Music, too, is a key concern in many arts fields, ranging from video production to live theatrical performances.

Musicians: The complexities within musical fields – sound recordings as well as musical works, plus connections to dramatic works and choreographic works – offer a lot to discuss in addition to fundamentals about using copyright or fair use. Across musical genres, there are numerous cases illustrating key points, ranging from fair use in *Campbell v. Acuff-Rose* (parody) and *Lennon v. Premise Media* (SDNY 2008) (fair use to use John Lennon’s “Imagine” for effect in a creationist film) to public domain status and record-keeping in the Happy Birthday case (*Good Morning to You Productions v. Warner Chappell Music* (C.D. Cal. 2015)).

B. How & Why: Academic Publishing Roles, Career Stage,

1. Publishing Roles:

In academia and creative industries, there is a persistent focus on the individual creator: The romantic author scribbling in her garret, the starving musician, the scholar toiling in the library. Even the garage band has a unitary identity as creator.

In fact, creation involves multiple actors at multiple stages, and in academic production, scholars take on many different roles beyond that of author. Scholars routinely edit special issues of journals or edited volumes, serve on editorial boards at journals or presses, or convene and edit conference proceedings. In each of these capacities, scholars have the opportunity to negotiate their own rights as well as the rights of contributors. Members of an editorial board also negotiate contracts with publisher / distributors, another opportunity for them to engage constructively with copyright around author and user rights.

2. Career Stage:

Even within a discipline, there are layers. Throughout the various stages of a career, people interact differently with their own work and other people’s work, and have different priorities. For instance, senior faculty may feel comfortable arguing for open access, because they have achieved tenure, but junior faculty may feel it more important to prioritize publishing in particular journals, and benefit more from a campus-based policy. With respect to copyright, age and professional seniority provide similar advantages, as well as different interests.

Let’s consider how librarians work with people in a few different career stages, starting with the youngest and most junior.

Youth: Public and K-12 librarians are often called upon to do sessions for middle and high school students,, and even upper elementary students, touching on copyright as well as plagiarism, citation, information literacy, privacy, security, and other matters – a hodgepodge sometimes called “net safety” or something similar. Youth are sometimes called “digital natives,”

and they can be quite sophisticated in how they use technology, but as every librarian who works with children and young adults knows, that sophistication doesn't necessarily translate into having the skills to find information, much less understand copyright, fair use, or Creative Commons licensing.² Yet this population is learning and using authoring programs to put together PowerPoint presentations and instructional videos, and finding material via search to share or build upon.

The challenge with a class of youth is finding a way to pique the interest of the whole class, when the students may share few common interests or experiences other than their age. Nobody is as bored by an exciting topic as a tween who is passionate about *something else*. For youth, I feel comfortable in amplifying the more dramatic aspects of copyright, and particularly those that might connect with students – the extraordinarily high statutory damages awards in the peer-to-peer downloading cases against Jammie Thomas or Joel Tenenbaum, for instance.

Undergraduates: Working with undergraduates provides some advantages over K-12 students: a potential shared interest in the topic of the class, and a likelihood that more of the students have more experiences with searching for other works and creating new works of their own.

Graduate Students, Post-Docs, Junior Faculty, and Early Career: Graduate students and post-docs are thinking hard about their professional futures, so they have a keen interest in conversations about maintaining their rights and negotiating, as well as exploitation and protection of their own works, and impact advantages of open access. Campus open access policies most commonly protect faculty, but may be optionally available for use by graduate students and post-docs. Graduate students, post-docs, and junior faculty are also the most publication hungry, and most focused on negotiating publishing agreements

Senior and Emeritus Faculty and Late Career: Senior faculty and emeritus faculty are much less likely to be interested in negotiating agreements for individual papers, and may feel they already know the drill. However, they even late career authors often have things to learn about their publishing and employment agreements. Moreover, late career faculty and authors may be more likely to be offered positions and opportunities offering new negotiation opportunities with vendors and distributors – such as editing journals, book series, or conferences. Commonly, emeritus faculty and late career authors are interested in securing their legacy, and considering institutional repository archiving or copyright termination options. Copyright scholar Paul Heald developed a graphic that strikingly captures the relative accessibility of older, out-of-print works based on their copyright status³. Showing authors that copyright prevents discovery of their older works particularly resonates with people more senior

² danah boyd explores this in *It's Complicated: The Social Lives of Networked Teens* (Yale University Press, 2014), available CC-BY-NC-SA 3.0 at <http://www.danah.org/books/ItsComplicated.pdf>.

³ Figure 1 (p.16 of the PDF), Paul Heald, "How Copyright Keeps Works Disappeared", *Journal of Empirical Legal Studies*, v.11, n.4, pp. 829-866 (2014), available open access at https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2290181.

in their careers, who have a large body of work languishing in the “in copyright but relatively inaccessible” portion of Heald’s chart.

3. Practitioners Versus Non-Practitioners:

The practitioner / non-practitioner spectrum offers copyright educators another frame through which to reach people, and tailor instruction to what they need.

Practitioners: From the copyright perspective, practitioners are people who are already writing or creating as part of their job; they build on other people’s work while they make their own. Consider a musician, who covers preexisting works, or in writing new work, takes riffs, rhythms, grooves, or quotes from other artists’ works. Think about scientists, who rely on existing protocols, methods, and figures to revise or adapt originals, publish review articles, or teach lab students or classes. Imagine the work of historians or arts critics or communication scholars, each of whom rely on close analysis of existing works, often copyrighted or at least potentially copyrightable.

Practitioners already have a hook: their practical day-to-day experiences with copyrighted works. An instructor just has to pull out the copyright angles, and present it to them. You can develop a myriad of stories that relate to their work in one field or another.

Non-Practitioners: Non-practitioners can be trickier, because they don’t necessarily have an obvious investment in copyright. This might include undergraduate or K-12 students, for example. To reach these audiences, an instructor will need to go the extra mile to find the common experiences that everyone can relate to. For instance, I routinely open classes with general audiences by asking them how many of them are copyright owners – and then amaze them with the knowledge that each of them personally owns thousands or tens of thousands of copyrighted works.

The copyrightability of *everything* can help even non-practitioners connect with copyright via the snapshots on their phone, their emails and Facebook posts, and the works of art their children produce by the score. From here, one can connect these quotidian copyrighted works to the problems of historical biographers, family genealogists, or the makers of popular documentary works.

Family, wedding, and school photographs also offer an opportunity to connect people with copyright, via works that are intimately connected to their family but are not (usually) owned by their family. The difficulties that people have run into having cherished family portraits reproduced offers a way to illustrate both the distinction between ownership of a *copy* and ownership of a *copyright*, as well as the challenges and injustices of overbroad enforcement, and the need to negotiate or think about rights in these kinds of situations. These conversations often flow naturally into the rights of subjects of works versus the rights of the creators of copyrighted works, as well as privacy and image releases.

Practitioner Intermediaries: Somewhere in-between are people who are not the creators or owners of works themselves, but are assigned the often thankless task of clearing rights. Assistants to writers or musicians, editorial assistants at publishing houses, reserves

and ILL staff at libraries, all have some practical connection to copyright, but may not have a strong personal interest in copyright as a system. Some staff are particularly interested in how all this works and are eager to take advantage of fair use or other rights. Other staff are just trying to get through a large set of assignments, and (reasonably) want to focus on the bottom line – how to make the process work better.

Sometimes their experiences in rights clearance predispose them to critique the absurdities of copyright: lengthy copyright terms and a lack of centralized registry of copyright holders, for instance, rendering ownership hunts and permissions requests sometimes entirely fruitless! Other times, however, it might be necessary to look for a hook to pique their interest. The personal element – the copyrighted snapshots on their phone, the emails – can be an effective tool to help them connect to their work with copyright, and construct a larger framework about copyright. Ultimately, it is sometimes most helpful to actually engage intermediate practitioners with the practical substance of their work. If seeking out rightsholders for older materials is tedious and ineffective, then they should definitely know more about how to assess the public domain status of materials, and they should keep Peter Hirtle's indispensable chart nearby.⁴ If they are looking for copies of academic works for reserves, then the browser plugin Unpaywall links to open access versions of scholarly papers.⁵ Editors looking for generic images and stock photos should know how to search for and understand Creative Commons-licensed content.

III. BAG OF TRICKS

A. Copyright Anecdotes to Shock the Conscience

Sometimes an audience is just difficult to grab. Moral outrage can sometimes do the trick, and tying moral outrage to situations familiar to the student is helpful. This is just a sampling, and copyright educators can readily find additional examples online. TechDirt (<http://techdirt.com/>) is one reliable source of horrifying abuses and absurdities within copyright, and the more you teach copyright, the more students will share with you their own copyright nightmares.

Academic research and the need for open access: Diego Gomez, Colombian researcher, faced up to eight years in prison for uploading a 2006 thesis on Scribd. Although he was found innocent in 2017, the prosecutor in the case planned to appeal.⁶ Aaron Swartz, American researcher and activist, was charged with copyright-related crimes amounting to dozens of

⁴ Peter Hirtle, Cornell University Library, "Copyright Term and the Public Domain in the United States," 2004, last updated 2018, available at <https://copyright.cornell.edu/publicdomain>.

⁵ <https://unpaywall.org/>

⁶ Michael Catanzaro, "Colombian biologist cleared of criminal charges for posting another scientist's thesis online," *Nature*, May 24, 2017, updated June 14, 2017, available at <https://www.nature.com/news/colombian-biologist-cleared-of-criminal-charges-for-posting-another-scientist-s-thesis-online-1.22057>.

years in prison, for downloading articles from the JSTOR database, potentially for the full-text data mining he had done in previous publications.

Use of scholarly content for teaching: Georgia State University (GSU) and Delhi University have both been sued by academic publishers to stop them from providing access to information. The GSU case is, at the time this article is being drafted, still being litigated, ten years on, and instructors were placed on the stand during the trial to discuss their uses of copyrighted works in instruction.

Music file sharing & outrageous damages: Jammie Thomas & Joel Tenenbaum were both “made an example of” by music industry litigation, with multi-million dollar judgments for sharing a small number of songs. These examples are *not* useful as “scared straight” anecdotes, to discourage file sharing or downloading – marquee punishment typically does not have a deterrent effect. However, they are attention grabbing, and can open up conversations about fairness and economic rationality. It is striking to compare these cases and countries with large, punitive damage awards (US, Mexico, Germany, the UK) with the approaches in Canada (fair dealing protects some personal file sharing)⁷ and Spain (file sharing is legal).

Copyright takedowns as censorship: In *Diebold v. OPG*, a voting machine company’s internal memos were leaked; the memos documented voting machine vulnerabilities, and Diebold tried to prevent this information from being disseminated by sending copyright takedown notices. Although the court found this to be clearly fair use, numerous individuals and institutions suffered the stress of receiving legal notices. Numerous other examples are available at LumenDatabase.org (formerly known as ChillingEffects.org).⁸ These examples are helpful in discussing the ease of copyright, and the potential for misuse; they also open up conversations about fair use and counternotices.

Negotiate permission requests for all the future uses: All too often authors fail to get *enough* permissions when they request permission to use images or other works in their own scholarship. The story of “Eyes on the Prize,” one of the most famous documentaries about the Civil Rights Movement, is a useful cautionary tale that will affect many adults.⁹ Others may respond to the award-winning 1970s era sit-com, “WKRP in Cincinnati,” which similarly has not been able to be released on DVD with its original licensed music.¹⁰

Permissions absurdities: In 2012, Pearson published and sold an art history textbook for \$180 -- with no pictures of art!¹¹ The company cited the difficulties and expense of licensing the art,

⁷ See *BMG Canada Inc. v. John Doe* (2004).

⁸ For further examples, see Mostafa El Manzalawy, “Bad Reviews: How Companies Abuse the DMCA to Silence Negative Criticism”, LumenDatabase blog, July 28, 2017, at https://www.lumendatabase.org/blog_entries/797.

⁹ Democracy Now, “Copyright Issues Block Broadcast of Award-Winning Civil Rights Documentary ‘Eyes on the Prize’”, February 8, 2005; transcript and video of news broadcast at https://www.democracynow.org/2005/2/8/copyright_issues_block_broadcast_of_award.

¹⁰ Wikipedia’s article on “WKRP in Cincinnati” has a nice review of the issue, at https://en.wikipedia.org/wiki/WKRP_in_Cincinnati#Music_licensing.

¹¹ Kyle Chayka, “An Art History Book, Minus the Art”, *HyperAllergic*, available via Salon.com, Sept. 19, 2012, https://www.salon.com/2012/09/19/an_art_history_book_minus_the_art/

some of which was actually public domain. In addition to licensing and permissions, this anecdote can also usefully open up conversations about open education, public domain, and fair use. Susan Bielstein's excellent *Permissions: A Survival Guide* offers additional art-related examples.

Negotiate your publishing agreements: In my work, I have seen a number of outrageous copyright situations that would have been alleviated if the authors had negotiated their publishing agreements. In one situation, a junior faculty member's journal publisher sought to charge her \$500 to republish a figure from her own paper. In another instance, a graduate student's publication agreement described the paper as a *work for hire* of the publisher, with no rights to include his paper in his dissertation. Finally, another faculty member published a textbook with a publisher, and although he told the editor that he wanted to publish a translation in his native country, was assured by the editors "not to worry" about his translation rights. When he was ready to publish the translation, with a publisher he had lined up, his original publisher claimed the rights – although they had no plans to translate or publish the work themselves.

Academic publishers targeting faculty authors: Every so often, an academic publisher decides to crack down on the common practice of faculty posting their papers on their personal websites. Elsevier did it in 2013, the American Society of Civil Engineers (ASCE) did it in 2014, and other societies and publishers have done it since. These are excellent teaching moments for faculty, because they afford an opportunity to discuss conventional copyright transfers in publication agreements, as well as open access and the shifts in the academic publishing world. Plus, counter-notices and the importance of keeping documentation!

B. Selection of Practically Universal Topics

Copyright educators will find the following topics approachable to many people in different situations.

- **YouTube channel management:** Surprising numbers of people manage their own video channels – everyone from youth that post music covers or instructional videos, to communications or administrative staff posting promotional videos, to instructors and faculty using YouTube (or Vimeo or similar) for educational purposes.

You can pique someone's interest in the mechanism for taking down (and challenging takedowns) videos or monetizing them; what kinds of background music can get content flagged or not; and how to respond and challenge a finding of copyright infringement. This provides opportunities to discuss, at a minimum, fair use, Creative Commons, the difference between linking and the 106 rights (reproduction, distribution, public display, etc.), the difference between *law* and *practice* (where platforms and publishers implement their own standards regardless of the law), and potentially many other topics as well.

- **Creative Commons:** Whether people are using other content or trying to figure out how to disseminate their own content, understanding Creative Commons (CC) licensing is broadly useful. Producers of content of all sorts – amateur and professional – need to locate and use openly available content, whether stock photos, clipart, or illustrations, or music and sound effects. Instructors can talk about locating CC content in search engines – a particular win for librarians since it offers the opportunity to connect to advanced searching and facets in other contexts, as well.

The potential licenses within Creative Commons each offer lesson points about copyright. CC-BY requires attribution, which is not otherwise a part of copyright law; this is another point of distinction between plagiarism and copyright, a common confusion. The ND license, no derivatives, provides a back-end opportunity to discuss fair use and the nuance of distinguishing between transformative fair uses and derivative works, such as translations, adaptations to other media, and abridgements. Non-commercial (NC) and ShareAlike (SA) licensing offer the opportunity to draw connections with open source software, as well as to unpack some of the grey areas inherent in commerciality, such as ad revenue and education.

And of course, distributing content via CC affords opportunities to promote a more mindful approach to uploading and sharing content, including review of default settings (and the concept of “the default”).

- **Contract and Licensing Negotiation:** Understanding how contracts work is generally useful information even outside of copyright work, thus providing a hook to almost everyone. Almost all adults, and many youth, have signed a lease or a mortgage, taken or given a loan, hired someone for a job or been hired, or purchased or sold something. Each of these tasks involves the basic contractual elements that underpin publishing and other transactions around copyrighted works, including, crucially, negotiation. These familiar environments also offer the opportunity to distinguish between exclusive rights and nonexclusive rights, and to delve into the specific aspects of contracting in any particular discipline.

C. Frequently Useful Exercises

Copyright contains such a wealth of detail and stories that it is tempting to fill a class with a lecture. But students, whether adult or youth, have greater interest in and retain more material when they are actively engaged in the class.

It's always helpful to have some key questions to start a class and get the mood for discussion flowing. Some extremely useful and very simple questions include:

- **How many of you are copyright holders?** This opens up conversation about the ubiquity of copyright, which as previously discussed can lead to reflections about the copyright system, or simply help people find a personal connection to copyright. It is also particularly useful for professional creators to understand that they do not have to

register to have a copyright. That opens up the conversation for when copyright registration is useful (sometimes) and when copyright notice is useful (almost always). An instructor can also open conversations about the absurdity of copyright by connecting this ubiquitous copyright to the copyright term. Yes, the snapshots on your phone are copyrighted until 70 years after your death! They form part of the estate for your great great grandchildren.

- **What questions / problems / concerns do you have about copyright?** An excellent open-ended question, and in any group under two dozen or so, you can actually just go around the room and generate a marvelous list of topics to cover. With a little practice, those topics can be grouped into a few common subsets, and an instructor will be able to be both prepared to deal with the common subsets of questions, as well as be responsive to and interactive with the audience's immediate concerns. In educational settings, for instance, instructors will commonly raise concerns about the course materials they create, the course materials they have students create, and the third-party materials they use in various ways.

There are other ways of breaking it down, but after running this exercise a few times with similar audiences, an instructor will have a feel for the kinds of questions that keep coming up, and what groupings they want to use.

- **What kinds of things can be “intellectual property” (or copyright)?** In business schools or with members of the public, there are often a number of people who are confused about trademark, patent, and copyright. This open-ended question generates lists of trademarks, movies, books, music, inventions, etc. You can then easily drill down into what is copyrightable and what isn't, how long copyright terms are, and various exceptions and limitations, while constructing a logical framework for the students to understand copyright broadly.

In addition to discussion and lecture, providing exercises for students during longer classes is often very helpful. A few simple exercises include:

- **A list of hypotheticals.** Depending on the topic and audience, hypotheticals can be in the form of a list of problem situations, where the audience spots the problem, or figures out the solution, or both. For instance, a set of hypotheticals where the students can assess whether to apply fair use or another statutory exception, like Section 110(1) (classroom performances). Another set of hypotheticals might include brief sketches of works to distribute, or works that a user wishes to use, and ask for assessment of Creative Commons licenses.

A hypotheticals list can work in numerous ways. For instance, small group discussion, individual review after discussion, as an icebreaker at the beginning of the session with a revisit during the class, or individual review and then group discussion towards the end of the class. Generate a list of hypotheticals that connect with your audience, and you

will often have people coming up to you during breaks to tell you of their real life experiences with similar situations.

- **Analyze a contract or a selection of contract clauses.** There are a wealth of possible options in contracts, and giving people the opportunity to read through a contract, mark up and strike through language, and rewrite language is uniquely empowering. Use short contracts to provide an experience that feels authentic but does not take up too much time. This assignment, too, can be done in table groups; although the reading and mark-up work best for individuals, group discussion after a short period can really solidify the exercise.
- **Role-play a case.** For longer classes, or throughout a multi-session course, having students actually read a case, and make arguments about the sides, can be an extraordinary experience. Reading legal reasoning helps people see that there are no magic answers – that law really is about reasoning and analogy. Giving people an authentic experience of legal uncertainty is actually really helpful because it makes them feel confident in their own legal reasoning.

Arguing the different sides – a sort of mini moot court – is enormously fun. Depending on the size of the group, they could do it at individual tables, informally, voting on who “wins,” and then reporting back to the group. Alternately, the class can be divided into sides, making and rebutting points.

IV. Conclusion

Copyright education is a natural fit for libraries, but brings a number of challenges – not least among them an enormous diversity of types of student, often with misconceptions and uncertainty about whether copyright is even important to them. Getting the attention of these students requires careful analysis of possible hooks in their disciplines, career stages, roles, and practical experiences with copyright. Audience analysis allows copyright educators to come to class with confidence, knowing they can meet the first critical challenge for any educator: engaging the attention and interest of their students.

Once students are invested in the class, copyright educators can help their students grapple with the complexities of copyright with familiar or engaging scenarios, deploying exercises and topics in ways that resist the tendency to over-simplify and eliminate nuance. Helping students grapple with the nuance and balance within copyright resolves some of the inherent contradictions at the heart of teaching copyright. It also provides students with opportunities to engage copyright in ways that are both reassuring and memorable, gaining useful take-home knowledge and skills, and a larger framework on which to continue to build knowledge.

The next time you see that student, they won't be ruefully confessing their imagined copyright sins while failing to realize the real ways their work is affected by copyright. Instead, they will be authentically balancing their own work with copyright concerns, and coming to you to help them tease out additional nuance. That is a copyright education success story.

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