

Managing IPR in Library and Information Systems

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Const., Art.XIV, Sec.13

- The State shall protect and secure the exclusive rights of scientists, inventors, artists, and other gifted citizens to their intellectual property and creations, particularly when beneficial to the people, for such period as may be provided by law.

Authorship – Moral Rights

The author of a work shall, independently of the economic rights..., have the right to require that the authorship of the work be attributed to him, in particular, the right that his name, as far as practicable, be indicated in a prominent way on the copies, and in connection with the public use of his work... (IP Code, Sec.193.1)

Authorship, Defined:

- An explicit way of assigning responsibility and giving credit for intellectual work (Authorship Guidelines, Harvard University, 2000).

Authorship Criteria

- Substantial and direct contribution to the work (Harvard University, 2000).

Plagiarism

- Uncredited use (intentional or unintentional) of somebody else's words or ideas (OWL at Purdue, retrieved 2008)
- Act of claiming authorship for another's words or ideas (Russell, 2004)

Civil Code, Art.712

- Ownership is acquired either by occupation [or] by intellectual creation.

Some Limitations to Copyright:

- Right of libraries to make copies under certain conditions (IP Code, Sec.188)
- Fair Use
- First Sale Doctrine

Fair Use

The fair use of a copyrighted work for criticism, comment, news reporting, teaching including multiple copies for classroom use, scholarship, research, and similar purposes is not an infringement of copyright (IP Code, Sec.185.1)

Digital Millennium Copyright Act (DMCA, 179 ALR Fed. 219)

- gives copyright owners right to control access to protected works through technological means
 - penalizes circumvention of technological barriers to access information in digital format
- First Sale Doctrine
- allows purchasers of copyrighted material to sell that which they have purchased without violating the copyright laws. The theory here is similar to that of the exhaustion doctrine in patent law. The copyright owner must derive all revenue from the so-called first sale, and cannot control the future disposition of the article originally sold (Quinn, retrieved 2009, par.2).

Licensing of e-Resources

- a contract binding on the licensor (the aggregator) and the licensee (the library)
- usually “all or nothing” contracts
- terms usually dictated by licensor

Some negotiating points (Alford, 2002):

- Pricing
- Users
- Access
- Uses

Librarians must...

- consider pricing mechanism
- consider who fall under term “users”
- consider how users will access electronic material
- be aware of restrictions on fair use

License should allow...

- copies for course packs
- loan to other libraries
- copies by users to extent of fair use
- formatting of electronic materials in another form, within limits of fair use

“Undesirable Terms” (NCSU Libraries, 2003)

- agreeing to indemnify vendor, e.g., for violations of copyright by users
- agreeing to be governed by foreign laws
- agreeing to submit to mandatory or binding arbitration

Libraries must further negotiate... (NCSU Libraries, 2003)

- terms that limit access of patrons
- terms that limit fair use rights

California Digital Library (2009): Terms that should be included...

- Archiving (for preservation purposes)
- Perpetual license to materials accessible during term of agreement
- Completeness of content of electronic format
- Linking to and from content (of citations, indexes, abstracts)
- Name of technical support contact person
- List of journal titles licensed
- reasonable assurances on availability and performance of vendor's servers and continuing improvements and updates at no additional cost
- permitted uses should allow fair use (interlibrary loan, use in course packs and electronic reserves, classroom use)
- permitted use of incidental, walk-in clients

Copyleft (GNU Project, 2009)

- a general method for making a program or other work free, and requiring all modified and extended versions of the program to be free as well
- guarantees that every user has freedom to use the work as long as person also passes the freedom to further use, copy or change it.

Creative Commons

- a **nonprofit** corporation dedicated to making it easier for people to share and build upon the work of others, consistent with the rules of copyright".
- also known as "some rights reserved copyright"

Creative Commons Conditions (from which creator can choose):

- Attribution (giving credit)
- Share alike (allowing others same freedom)
- Noncommercial
- No derivative works (may also allow derivative works)

Open Source Initiative:

- Non-profit organization based in California
- Advocates use of open source
- Important activity is "as a standards body, maintaining the Open Source Definition for the good of the community" (Tiemann, 2006)

Open Source Use Conditions:

- Free redistribution
- Must include source code and must allow distribution in source code as well as compiled form

- Must allow derived works
- May require integrity of author's source code
- No discrimination against persons or groups
- No discrimination against fields of endeavor
- Rights must apply to all to whom program is redistributed
- License must not be specific to a product
- License must not restrict other software distributed along with licensed software
- License must be technology-neutral

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