

THE © COPYRIGHT & NEW MEDIA LAW newsletter

Editorial

Who works in copyright law? Obviously lawyers – entertainment, new media, and some college lawyers. Civil servants including the 450 employees in the U.S. Copyright Office, and those who research and establish copyright policy for the government as well as those who draft legislation for copyright amendment bills. Those in intellectual property (“IP”) international organizations such as WIPO that administers several copyright and other IP treaties. Lobbyists (for copyright reform), academics and economists, publishers, librarians, and those in museums, colleges, and archives all have positions with a copyright function. According to the U.S. Department of Labor, Bureau of Labor Statistics, the demand for paralegals and legal assistants and private investigators involved in intellectual property work is expected to grow (see <http://www.bls.gov/oco/>).

Both lawyers and non-lawyers have jobs and functions relating to copyright and licensing in a spectrum of enterprises from for-profit to non-profit to government and include educational institutions, trade associations, and cultural institutions. Some examples of open positions I have come across over the past few months include the following. The University of Maryland (Baltimore) was seeking an Associate Director for Resources, Health Sciences Library. As division head, this position involves broad management responsibilities, including collection development, access, and copyright compliance for resource sharing. Also, this person oversees all aspects of repository development and obtains digital permissions. The University of Maryland (College Park) was also seeking an Electronic Resources Librarian to assume leadership in procurement, licensing, and management of electronic resources. The person will handle negotiation and administration of new and existing licenses and contracts. The person will also work in consultation with university counsel to resolve licensing and contractual issues.

A Toronto-based copyright collective was seeking a Law Clerk. Claremont Colleges was seeking a Digital Production Librarian, to manage the Digital Production Center. The position requires an understanding of copyright laws and rights management issues in a digital environment. The U.S. Library of Congress was searching for a Supervisory Copyright Information Specialist, to be in charge of the public information and education of the U.S. Copyright Office.



This issue of *The Copyright & New Media Law Newsletter* examines jobs and functions as mentioned above, and the people performing them. Admittedly not in any scientific manner, we interviewed several people in a variety of copyright and licensing positions. We asked them questions relating to job titles, typical duties, issues addressed regularly, work environments, education requirements for performing copyright and licensing duties, and more. This issue explores the results of our review of the interview responses.



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Although there is no single correct taxonomy of the copyright jobs, we came up with three general groupings to convey the essence of the wide range identified in our interviews. In the first article in this issue, we examine positions with copyright education duties. The next article discusses jobs emphasizing copyright licensing and permissions duties. The third piece examines positions involving enforcement of copyrights and monitoring of possible infringement. A final article explains how others may increase their job functions to include copyright and licensing or find positions working in this area. ■

Lesley Ellen Harris
Editor

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News Brief COPYRIGHT REFORM IN CANADA

On 2 June 2010, a 64-page bill was introduced into the Canadian House of Commons by Industry Canada Minister Tony Clement. The bill's short title is the Copyright Modernization Act. Bill C-32 covers a variety of issues which may be divided into various categories including provisions benefiting creators, those benefiting consumers of copyright-protected materials, sections to ensure that Canada comply with the two 1996 copyright treaties administered by the World Intellectual Property Organization, and portions to deal with technological changes that need addressing in the Canadian Copyright Act.

News Brief U.S. COLLEGES MUST DEAL WITH PIRACY

The U.S. Higher Education Opportunity Act ("HEOA") was signed into law on 14 August 2008. Enforcement of its provisions begin 1 July 2010. Several sections of the HEOA deal with unauthorized file sharing on campus networks, requiring all U.S. colleges and universities to provide: an annual disclosure to students on describing copyright and campus policies on violating copyright; a plan to "combat" piracy by users of its network; and, a plan to offer alternatives to illegal downloading.

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Many copyright-related jobs encompass a large time component for teaching others about copyright. These positions may involve educating and informing organizational professionals and all employees, clients, and sometimes the public about copyright basics, legal uses of protected content, and how to avoid infringing copyright. Teachers and professors in all levels of educational institutions, those in professional and trade associations or in specific copyright organizations, attorneys, and those who work in libraries, archives, and museums often have an educational component to their work.

Some who perform this function work in positions that may carry a variation of the title Copyright Officer, Copyright Educator, or Communications Coordinator. This education function is also a key component of many jobs that carry other titles. For simplicity, this article will refer to this role as copyright educator.

A copyright educator may spend most of her time educating creators or publishers or teachers about copyright and licensing agreements, or may be an instructor in a specialized area, perhaps in a school for information science. In the latter case, the instructor may teach an entire course on copyright law, or may include components of copyright law education as modules into a variety of relevant courses.

The copyright educator function may involve copyright enforcement as discussed in a further article in this Newsletter. Enforcement duties in this context can achieve a secondary purpose of indirectly educating others about copyright rules and requirements.

The Copyright Educator's Function

What specific tasks do copyright educators undertake? One duty is to design and create content for copyright information programs, and/or to implement these programs. Michele Ayers, Manager of Educational Services at Copyright Clearance Center ("CCC"), educates through a variety of forums including in-person sessions, webinars, tradeshow, workshops, and the CCC's website.

Alexis Hart McDowell, Esq. Director, Copyrights & Contracts, American Bar Association, delivers copyright information internally through lunch-and-learn sessions, a best practises manual, and intranet postings. Anca Medesan, Copyright Officer, SAIT Polytechnic, develops copyright training materials, delivers workshops, and provides one-on-one advice on avoiding copyright infringement as part of her educational function.

Jane Park, Communications Coordinator at Creative Commons, engages in ongoing communications with creators, companies, and institutions to educate them about creative commons licenses. Specifically, she gives talks and presentations where she provides background on the development of creative commons licenses, and she organizes events that illuminate copyright issues. She conducts interviews with people involved in copyright issues, and blogs news relevant to creative commons licenses. Another educational function she performs is to draft reports and educational materials.

Like many jobs in copyright, the copyright educator may be part of a larger copyright team or department and may be involved in functions beyond education. For example, copyright educators are often involved in preparing a copyright policy for their organization. Through her teaching, the educator is familiar with the type of copyright compliance issues that should be in a particular organization's copyright policy, plus the completed policy often serves as materials for education.

Informal Education

Copyright educators also educate their target audiences informally, by fielding and responding to questions about copyright issues. Patricia Buckley, Communications Resource Officer at World Wildlife Fund-Canada, conducts formal seminars, but generally educates her user community "informally as often as [she] can." In her context, this informal education function includes giving advice on use rights for images in her organization database, educating colleagues on copyright issues pertaining to stock images, and advising on the contractual obligations of others who wish to use their material.



Michele Ayers similarly reports that she fields a variety of questions from colleagues and external customers daily.

Educating the Educator

Some educators are copyright lawyers who teach the occasional seminar or college course, or will present at a conference. Their instruction draws from their legal training and day-to-day legal work. Many copyright educators, as evident from our interviewees, come to this position with various backgrounds, as well as experience in copyright and licensing issues. This seems to be both a big component and a similarity among copyright educators.

Bachelor's or master's degrees in library studies with copyright law coursework are a common educational foundation for copyright educators. Many copyright educators without a legal background will work with in-house attorneys to develop educational material or programs. The educators we interviewed had a variety of backgrounds. This is because much of the specific knowledge copyright educators require to carry out this function comes from professional development and work experience.

For her position, Michele Ayers reports that a bachelor's degree is required and a master's is recommended. For copyright-specific knowledge, however, Michele has built upon her academic learning by undertaking considerable training with CCC's in-house attorneys and external organizations and, notably, from her day-to-day job activities in the copyright-intensive work environment at CCC. Patricia Buckley has a Master of Information Studies (Library Studies) but she reports that her "copyright education was gained through a career as permissions editor and photo researcher in the publishing industry."

Anca Medesan has a Master of Library and Information Science degree and has gained much copyright knowledge through her employment experience in marketing and as a technology writer, as well as additional online professional development training from Copyrightlaws.com courses. Professional associations in many fields are increasingly offering in-person and online copyright education throughout the year or at their meetings and conferences.

Self-study is also a part of educators being educated; there are an increasing amount of print books and online sites that have reliable and easy-to-understand information on copyright principles as they apply to libraries, schools, museums, publishers, creators, and others.

Conclusion

Whether a full-time or part-time copyright educator, educators need a solid background in copyright and licensing through education and experience. They must be able to explain complex concepts in plain language to a variety of audiences at a variety of levels, and understand how copyright and licensing works in a particular industry. ■

If I had \$10,000 to Spend on Copyright...

One of the questions we asked our interviewees is, If you had \$10,000 to spend on copyright and licensing issues, what would you do with this money? Below are the replies.

Profession development. Creation of institutional website page concerning Museums and Copyright Issues. – Rebecca Melenka, Glenbow Museum

I would spend the money on developing a copyright infringement training module for end users who intend to sell online. They could go on our site and download these modules for a nominal fee. – Ramona Percelle, Software & Information Industry Association

Hmmm....I'd probably use it to set up a copyright education program for and with the National Cartoonists Society. – Amy Lago, Washington Post Writers Group

Develop a Best Practices document for use of documentary video in education, much like the one that was developed in the U.S. by Center for Social Media. Also, develop a model license for digital video use in Canada. – Susan Weber, Langara College

THE LICENSING AND PERMISSIONS PROFESSIONAL

Many copyright-related jobs and functions deal with licensing, rights clearances, and permissions matters. Of the people surveyed, most cited tasks related to licensing or license interpretation as either a part of their typical duties or an issue they commonly address.

As observed in the case of copyright educators, job titles vary greatly and often do not reflect licensing at all. Copyright Manager, Publishing and Rights Coordinator, Librarian, Copyright Administrator, Editor, Library Technician, and Library Director are some of the job titles reported from persons engaged in significant licensing and permissions duties. This article refers to the role as licensing professional.

Licensing Organizations

Licensing jobs are found in a range of settings. Licensing-specific organizations are obvious places for the licensing professional. Because of the nature of her organization, Jane Park of Creative Commons (“CC”) deals extensively with licenses and with helping others understand CC’s unique type of license. CC provides a choice of licenses for content owners to use with their digital content.

Michele Ayers of Copyright Clearance Center (“CCC”) deals with license interpretation and external permissions issues daily. She has significant experience negotiating and interpreting CCC’s licensing solutions with their customers. She reports that she feels very comfortable answering licensing questions but does have the opportunity to consult with in-house attorneys. CCC licenses the rights to millions of books, journals, newspapers, websites, electronic books, images, and blogs.

Libraries and Colleges

Many organizations, notably libraries, regularly enter into licensing agreements to access or use copyright-protected material such as an electronic database or electronic journal.

Cynthia Steinhoff, Director of the Library, Anne Arundel Community College, reports that her role is to negotiate and interpret such licenses. Lynn Hughes, Library Technician, Copyright, College of the Rockies, obtains permissions in respect of faculty requests for electronic reserves and course materials. She also ensures that public performance or streaming rights are negotiated for media acquisitions. Lynn works with the college’s acquisitions and information technology groups to ensure proper permissions and licensing agreements are in place before acquiring electronic content.

Similarly, Anca Medesan at Southern Alberta Institute of Technology works on the purchasing side of the licensing agreements. She spends much of her time interpreting licenses and terms of use and often advises on electronic content contracts. She plans to continue to license electronic books and other materials on demand and better integrate them with digital course materials in a way that will avoid copyright infringement.

Another academic librarian, Susan Weber at Langara College, negotiates licenses for the College’s use of media, formerly video and now digital content. She has become “the go-to-person” for negotiating and interpreting license agreements for electronic content including images. The negotiations involve topics such as permission to make copies, clips, and retention terms. Her goal is to use a model license for digital video. “I am developing a model license that we would use for digital video. Rather than revising a license that every vendor has developed on their own, I’d rather develop our version of same so that we know what is contained in the license, and it is on our terms.”

Ann Okerson, Associate University Librarian at Yale University, is heavily involved with licensing, both in her role at Yale and as one of the founders of the International Coalition of Library Consortia. She is involved in interpreting licenses, for example, advising whether a given license permits activities such as placing materials in electronic reserves, digitizing information for certain purposes, linking, and the like.



Content Organizations

Organizations that own, create, or distribute copyright-protected material are also settings for licensing jobs. Rebecca Melenka works in digitization as the publishing and rights coordinator at the Glenbow Museum. Rebecca clears rights and issues licenses for external use of images for pieces in Glenbow's collection. She reviews Glenbow's internally generated publication to ensure that rights in works in the publication are cleared and appropriate fees are paid. She also negotiates and interprets electronic content license agreements, and issues and monitors contracts for the use of images on the web.

Isabelle Brochu is the Copyright Administrator for the Publications Service of the Canadian Conference of Catholic Bishops. She is responsible for protecting the copyright in biblical translations, liturgical hymns, and books pertaining to her organization. Her typical licensing duties are to request and grant reproduction permissions, and to revise and draw up licenses for multiple format reproduction. She also negotiates and interprets license agreements for electronic content.

Amy Lago is the Editor, Comics/Graphics/Promotions, at the Washington Post Writers Group, the syndicate arm of the Washington Post Company. She has substantial involvement in negotiating and interpreting most e-content license agreements, reviewing them along with the group's lawyers. She is watchful for infringing uses of their cartoonists' work and requesting either payment for permission or removal of the infringing work. Similarly, she vets the Group's cartoonists' work and ensures that permissions are cleared if a cartoonist wishes to use protected content.

A significant portion of Patricia Buckley's work at WWF-Canada involves license interpretation and negotiation matters. She responds to questions from staff on permitted uses of stock imagery, photos, and video. Patricia also represents her organization in contract negotiations with newspapers, television, and textbook publishers who wish to use their material, and she similarly negotiates with photographers and videographers for copyright ownership or licenses.

Education and Training

The licensing professional can have a quasi-legal function in terms of licensing negotiating and drafting. However, it does not follow that legal training or a law degree is necessary for a licensing professional. This is evident from the amount of librarians, educators, administrators, and others who are licensing professionals. Librarian Ann Okerson says, "Copyright fundamentals are key if one has licensing responsibilities. Library licenses should be built on a solid copyright foundation." Often, the licensing professional has access to attorneys for consultation, perhaps in-house counsel or copyright attorneys on retainer, depending on the work setting. Specific copyright or media law coursework in college or library school are helpful to the licensing professional, as is experience and ongoing education.

Conclusion

Whatever the focus of their jobs, most if not all of our interviewees reported a licensing or permissions function, whether maintaining licenses acquired by their organization or monitoring and clearing permissions requested by others. As court cases define the permitted uses of electronic content, and businesses further experiment with exploiting content, the role of the licensing professional will continue to grow. ■

News Brief

FAIR DEALING INCLUDES CONSUMER RESEARCH

On 14 May 2010, the Federal Court of Appeal (in Canada) confirmed a Copyright Board of Canada decision that permits a broad interpretation of fair dealing (2010 FCA 123.) The issue in the case is whether "research" as mentioned in the wording of fair dealing extends to song previews. Such previews would include a person freely listening to approximately 30 seconds of a song on a site like iTunes. The Board had ruled in 2007 that the preview was allowable as consumer research.

THE COPYRIGHT MONITOR AND ENFORCER

Enforcement is an area that many people think of when they think of copyright. It may mean monitoring for copyright infringement and issuing take-down notices or requesting payment for infringing use, and establishing digital rights management. Dedicated enforcement roles exist, however, there are monitoring and infringement tasks among the duties of many different copyright jobs. This article refers to the role as copyright monitor/enforcer.

Associations Enforcing Copyright

For the owner of copyright-protected material, enforcement of that copyright is crucial. Ramona Percelle, Internet Anti-Piracy Manager, at the Software & Information Industry Association (“SIIA”), works in this context. Her job involves investigation and research. “On a daily basis I receive Internet software piracy leads from our piracy hotline/forms from member companies, and as a result of monitoring auction sites, classified ads, websites, and file-sharing operations.”

The next stage for Ramona is to follow those leads and begin enforcement actions. “Once I receive the leads, I prioritize each lead and prepare an enforcement strategy for these leads by conducting thorough investigations, conducting test purchases, sending DMCA notices to websites, ISPs, and to auction platforms in the U.S. and abroad.” She helps SIIA’s in-house counsel to build civil legal cases against the most egregious online sellers, and she works with “private investigators to build criminal cases against software pirates and forward those leads to various law enforcement agencies.” Ramona also trains and manages other investigators to monitor and enforce copyright on online auction sites. She works closely with SIIA member companies, sellers of computer software, and auction sites to ensure that infringing software is removed.

Specific Activities in Enforcement-Focused Jobs

Ramona regularly sends DMCA notice and takedown requests to Internet Service Providers (“ISPs”) hosting infringing material, to prevent the sale and distribution of pirated or counterfeit goods. She reports that a new trend is to buy software in bulk from online sites in certain countries at very low prices, “and attempt to resell them on U.S. auction platforms and classified ad sites.” In these cases both the resellers and the buyers may not realize they are distributing illegal, counterfeit goods. “So, on a daily basis I am engaged in conversations with sellers about the consequences of distributing counterfeit goods, but also with informing the buyers to beware that when a software product is at a price too good to be true, then it probably is.”

Another of Ramona’s duties is to seek out and deal with online sellers who violate software license terms by attempting to copy, rent, lease, or distribute software without authorization. These situations often become civil legal cases.

Vivienne Dunlop, Director of Translations, Rights & Licensing, Lippincott, Williams & Wilkinson Journals (“LWW”), Wolters Kluwer Health Medical Research (“WKH”), works with an association to enforce her employer’s copyright. Vivienne says that, “WKH has an active anti-piracy team and is involved with the UK Publisher’s Association anti-piracy portal.”

Further associations who have anti-piracy departments and employ a number of persons with and without legal backgrounds are the Recording Industry Association of America and the Motion Pictures Association of America.

Other Positions with an Enforcement Component

Organizations that create or own content, or represent those who do, are also environments in which we see copyright monitoring and enforcement duties.



Alexis Hart McDowell, Esq., of the American Bar Association (“ABA”) reports that one of her duties is to reduce the ABA’s legal risk when using third-party content. Alexis guides ABA staff and members in the fair and proper application of copyright law.

Isabelle Brochu of the Canadian Conference of Catholic Bishops holds an enforcement function when her employer is acting in its role as a copyright holder. She informs people about the copyright in materials like translations of the Bible. One of her goals is to continue “to promote respect of copyright laws at the parish and diocesan level. It is often hard for people to understand that they can’t reproduce books or hymns without permission, even if they have no intent of selling the copy for monetary gain.”

Rebecca Melenka at the Glenbow Museum monitors social media and is a watchdog for the use of Glenbow’s images without permission. “Many people don’t think twice about seeking out rights for image or text use and figure that they won’t get caught anyway.”

Vivienne Dunlop, based in the UK, monitors WKH’s licensing arrangements. She works closely with vendors to “ensure both their compliance and that of their end customers.” Her network of competitors also assists by notifying WKH if they think “an approved or unapproved vendor might be breaching copyright through unauthorized or inappropriate distribution of LWW-managed copyright materials.” Vivienne’s organization also has an international network and global presence through their local sales teams for OVID and Pharma Solutions and this “is a huge boon to flagging any local copyright compliance problems.”

Education

The copyright monitor/enforcer has comparable educational background to the copyright educator and licensing professional. Some are editors, publishers and librarians. As always, experience goes far in this type of position. In addition to undergraduate education, Ramona Percelle of SIIA has relevant work experience, as an IP Paralegal for a software company, and by taking professional development courses on intellectual property law. She also assisted SIIA general counsel with developing an anti-piracy program for the organization. ■

What Would Make the Copyright Aspect of your Job Easier?

One of the questions we asked our interviewees is, What would make your job or the copyright aspect of your job easier? Below are the replies.

If more people knew about the basics of copyright, then I probably wouldn't have to spend so much time explaining how and why CC licenses work. As it is, most people don't realize there is a problem with the existing system. They don't know what copyright was originally designed to do, and why students are getting sued for thousands of dollars by large corporations for downloading music via the Internet. They think copyright has always been this way, when it hasn't. – Jane Park, Creative Commons

I don't suppose it's fair to say “some adjustments to the copyright act?” What I mean is, libraries spend a lot of time trying to find a way to use works that may be (or are in) copyright, for totally educational purposes. However, for electronic information, the rules are not clear-cut and one spends a lot of time on analysis and risk assessment. Orphan works legislation would be most helpful, as well. So will the Google Settlement if/once we have one that's sensible. I would love to have funds for a position such as some other libraries have, or the assured time of University Counsel so that tasks and projects related to copyright don't slow down. – Ann Okerson, Yale University

If the phrase ‘It's easier to ask forgiveness, than permission’ didn't exist – many people don't think twice about seeking out rights for image/text use and figure that they won't get caught anyways AND if they do, they'll plead ignorance. – Rebecca Melenka, Glenbow Museum

If people understood that even if materials are readily available, or free, that doesn't mean that they aren't protected by copyright. – Michele Ayers, Copyright Clearance Center

Written institutional policy; Mandatory educational seminars for staff; Staff refer to procedures for obtaining/reproducing images, etc.; Standard fees between institutions for public domain works (I can receive quotes ranging from \$45 to \$4,500 for reproducing in an exhibition anthology.) – Anonymous (works in a museum)

Enthusiasm and a commitment to their jobs is a common theme among our interviewees for this issue. As Vivienne Dunlop told us, “Many see it [copyright] as a rather arcane branch of publishing but those that get bitten by the bug tend to stay with it . . .” Many of our interviewees did seem bitten by the bug and have advice to share with others seeking a position in copyright or licensing.

Vivienne posits that “There is a paucity of people available for positions that span the skill sets required between legal knowledge of contracts and copyright and the hands-on publishing environment.” Although different jobs require different levels of copyright knowledge and concentration on different areas of copyright, education and experience is key to copyright jobs.

Advice

Ann Okerson’s advice is, “Do your copyright homework; get as strong foundation in it as you can. Take workshops where available; read books, study websites. Sign up for appropriate email groups, listen to talks in your law school or at ALA or wherever. There’s no substitute for well-founded knowledge. Bone up on scholarly communications issues of the day. You can’t be superficial about any of this. Next, you need to start getting experience: find a spot for yourself on a library committee that engages with copyright issues—practise your skills and check your views against views of others, preferably experts. Develop a network to help you learn—inside and outside of your organization. Plenty of talented people out there and they’re willing to help you out. You have to know the material and love this kind of challenge if you’re going to be good at copyright/licensing and have it as part of your credible professional life.” Brushing up on negotiating and communication skills may also be helpful to those who want to work in copyright.

Vivienne also reminds copyright people that they do not need to know everything themselves, especially as non-lawyers in these positions. “It’s virtually impossible now to keep up with all aspects of differing international copyright laws, so knowing when to obtain specialist legal advice is important especially in a global publishing and licensing environment.”

The Growing Job Market

Vivienne thinks that there will continue to be a steady growth in jobs relating to copyright in the future. She says, “The task of securing rights for use of copyrighted material for distribution on platform-neutral media ensures continued growth as well as the task of clearing rights for subsequent usage. The nature of the jobs will continue to change with increased automation of rights clearance and billing but the software development will still require a knowledge base. Rights audits required for pricing and licensing into these schemes will continue to provide jobs as, perhaps counter-intuitively, so does the increased diversity of material available through Creative Commons and other Open Access type initiatives, which require rights audits to establish appropriate clearance for further uses (e.g., commercial vs. non-commercial).”

If You Seek, You Shall Find

If you are seeking a copyright/licensing position, some legwork will help you obtain the right information. Undertaking an online search especially if you delve into further pages may locate open positions. Organizations such as WIPO, national copyright offices, trade associations, copyright collectives, professional associations, and entertainment, content, and media companies often advertise on their own websites for open positions. Listings of job opportunities in colleges and libraries are also good starting places for finding copyright and licensing positions.



Copyrightlaws.com lists open positions. Ask colleagues, email those who work in copyright/licensing positions, and ask them for leads. Post messages on relevant discussion lists so your colleagues know you are looking for a new position.

One of the associations (to remain anonymous) who we interviewed has just created a new position and is seeking a candidate for a Copyright Officer. The association is open-minded as to the background of the people they are considering for the position. They believe that there is no “standard” profile for this position and they are advertising the position in a broad range of venues to attract a range of candidates.

Create Your Own Position

If you are delving into copyright and licensing issues in your current position as a “sideline” to your required job duties, consider asking about expanding those duties or getting recognized for that work in your job title. Ask your organization to create a new position (for yourself or for someone else) to handle the increasing number of copyright and licensing issues that are landing on your desk, and perhaps throughout different departments in your organization. Creating a Copyright Officer-type position can often centralize copyright within an organization and ensure a more consistent and better managed approach to handling copyright and licensing issues. ■

In 2010, The Copyright & New Media Law Newsletter is entering into its 14th year of publication.

If you would like back volumes of this newsletter in print or PDF for the years 1997 - 2009, email: editor@copyrightlaws.com.

Growth of the U.S. economy, creation of jobs for American workers and support for U.S. exports

Enforcement of intellectual property rights is a critical and efficient tool we can use, as a government, to strengthen the economy, support jobs and promote exports Intellectual property supports jobs across all industries, and in particular where there is a high degree of creativity, research and innovation: good jobs, with high wages and strong benefits Intellectual property- related industries can employ an engineer working for a technology company to design the next generation of cell phones, a software developer writing a new algorithm to improve search engine results, a chemist working for a pharmaceutical company to develop a new drug, a union member helping to manufacture a newly-designed tire for automobiles, or a camera operator working on a movie set to help film the next Oscar-winning movie Effective enforcement of intellectual property rights throughout the world will help Americans export more, grow our economy and sustain good jobs for American workers.

- 2010 Joint Strategic Plan on Intellectual Property Enforcement

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REVIEWS

PRINT

The Public Domain: Enclosing The Commons Of The Mind, James Boyle; 315 pages; \$18 US; (Yale University Press P.O. Box 209040 New Haven, Connecticut 06520-9040, yalepress.yale.edu)

The Public Domain: How to Find & Use Copyright-Free Writings, Music, Art & More, Stephen Fishman; 462 pages; \$29.99 US; (Nolo, 950 Parker street, Berkeley, California 94710, www.nolo.com)

The public domain or PD is an often discussed and sometimes misunderstood term in copyright parlance. In simple terms, PD works are those that are not protected by copyright, including works in which copyright has expired or in which copyright never did exist. PD works may be used without permission or payment of a royalty. James Boyle and Stephen Fishman take two very different approaches in their books on the PD.

James Boyle, a professor at Duke University School of Law, takes a more formal and academic look at the PD in his book, *The Public Domain: Enclosing the Commons of the Mind*. Professor Boyle explores the “intellectual land grab” that is happening today as more information, art, and other matter is excluded from the public domain by restrictions under our intellectual property laws. According to Boyle, “we need a movement—akin to the environmental movement—to preserve the public domain.” He claims that we all benefit from knowledge and creative works that are freely available to everyone. “We want a lot of material to be in the public domain,” says Boyle, “material that can be spread without property rights.”

Professor Boyle asserts that, “first we have to ‘invent’ the public domain before we can save it.” He discusses this “intellectual land grab” and how it will cost us all in terms of innovation and culture in our society. He argues that our laws have to develop and grow along with our technology, and that overly restrictive or outdated intellectual property laws and policies may hamstring creativity and the spread of knowledge. This highly readable book gives writers, artists, information professionals, as well as legal professionals some food for thought in a Digital Age where content has a new role and usage.

Lawyer Stephen Fishman, in his book *The Public Domain: How to Find & Use Copyright-Free Writings, Music, Art & More*, provides a practical easy-to-read guide to legally using PD materials. In his trademark style also found in *The Copyright Handbook*, Stephen Fishman provides a step-to-step guide for anyone using text, music, art, images, movies and television, computer software, maps, databases and more. He also provides practical steps to deal with PD gray areas, what to do if someone challenges a PD claim and how to document the use of PD materials. He describes in plain English the confusing area of works that were in the PD and are subsequently protected by copyright, using PD works outside of the United States, the Internet and the PD and more.

The book has a table of contents and index that makes it easy to pinpoint relevant sections. The design is visually pleasing with text boxes and icons to guide the reader to the required information. The final chapter in the book, What if a Work Is Not in the Public Domain, provides practical tips on obtaining permission to use the non-PD work, and applying the fair use defense. *The Public Domain* is an essential read for anyone who uses content and needs to understand the copyright status of that content.

Copyright: Interpreting the Law for Libraries, Archives and Information Services, Graham P. Cornish; 194 page; £44.95 UK; (Facet Publishing, 7 Ridgmont Street, London WC1E 7AE, www.facetpublishing.co.uk)

Copyright Consultant Graham P. Cornish has authored a new edition of a well-regarded British reference work, *Copyright: Interpreting the Law for Libraries, Archives and Information Services*. Presented in an accessible question and answer format, this book is a useful tool for United Kingdom librarians. The book is intended for library staff rather than legal scholars and attorneys. The table of contents is straightforward and designed for quick reference, with chapters or “sections” with simple titles, such as “what is covered by copyright” or “films, videos and DVDs.” There are also appendices included with addresses of copyright-related organizations, and lists of resources for further reading. Now in the fifth edition, this book is helpful to anyone requiring a practical, non-technical introduction to U.K. copyright law.

COPYRIGHT QUESTIONS & ANSWERS

Question: My organization is purchasing electronic resources. Who should be negotiating the license for these resources?

Answer: Generally, librarians are responsible for negotiating license agreements, often with final review by counsel. Many organizations also approach licensing as a team consisting of a librarian, lawyer, purchasing department representative, and others.

Question: We are instituting a new position in our organization, Copyright Officer. Should this person have a law degree?

Answer: Although some Copyright Officers have law degrees, most do not. The best background for a Copyright Officer is experience in dealing with day-to-day copyright and licensing issues. There are also many professional development opportunities for non-lawyers to gain knowledge on copyright and licensing.

Question: I take photographs for use on my company's website. I am now publishing a book of travel photographs. Does my company have any rights in my book?

Answer: In most countries, works created during the course of employment belong to the employer. However, these are only works that are part of the employee's duties, taken during work hours, using work equipment, etc. Works (including photographs) produced on one's own time, not part of one's work duties, belong to the employee.

Email your questions to: editor@copyrightlaws.com or post them in the Qs & As section of the weblog: www.copyrightlaws.com.



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