Chapter 4
Information Technology and Fair Use

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ABSTRACT

Intellectual pursuit and the recognition of ideas is a central concept. Copyright attempts to protect the rights of intellectual creators while balancing those rights with the needs for access. As technologies have expanded, and their production has become more sophisticated, the legal regulations surrounding their use have become more complex. With the advent of the interactive Web 2.0 and increased resource sharing, as well as growth in distance learning opportunities, complying with the legal use of Information Technology can be daunting. In any case, leaders and other educators should be aware of the more important aspects of technology-related copyright laws and regulations. This article provides an overview of copyright law and fair use for educational research purposes. It explains different options for intellectual production and sharing, and notes administrative actions to support copyright compliance.

INTRODUCTION

In today's digital world, leaders and other educators can manipulate a wide variety of information for authentic projects. In the process, everyone needs to acknowledge the idea creators and their intellectual property.

As technologies have expanded, and their production has become more sophisticated, the legal regulations surrounding their use have become more complex. With the advent of the interactive web 2.0 and increased resource sharing, as well as growth in distance learning opportunities, complying with the legal use of information technology can be daunting. In any case, leaders and other educators should be aware of the more important aspects of technology-related copyright laws and regulations. This chapter provides an overview of copyright law and fair use for educational research purposes.

Legal Background

A central aspect of education is intellectual pursuit and the recognition of great minds. Yet teachers bemoan the rise in cheating, which technology facilitates. On their part, students have a more lax attitude about intellectual property. Particularly with Web 2.0, which fosters collaborate knowledge generation, identifying the originator of an idea can be difficult to ascertain.

The publishing world further complicates the intellectual property picture. Reporters are demanding personal credit and remuneration for their contributions. Publishers create copyright agreements to cover authorship rights based on format. Multimedia copyright laws can be very specific: restricting resizing or other image manipulation, stipulating the length of music or video that can be copied legitimately. Fortunately, education falls under the umbrella of Fair Use, so restrictions are loosened up a bit in order to support personal research.

Although intellectual property is sometimes used interchangeably with copyright, the former is a broader concept. Copyright protects creative and original ideas that are recorded in tangible form. Other U. S. intellectual property deals with trademarks, patents, trade secrets, and licenses.

Copyright laws seek solutions to give authors fair compensation for sharing their work. Begun as a way to give scientists and inventors lead time to prevent others from using their work without permission, copyright laws in the United States have become more far-ranging. For example, in-house writers such as newspaper reporters now demand personal credit and remuneration for their contributions. In this digital age, copyright laws have become more complex.

The chief statute driving copyright law is the Copyright Act of 1976, which become effective in 1978. Several factors were included for the first time in this piece of legislation: a codification of fair use, the right for an author to receive copyright for an unpublished work, and the divisibility of authors' rights. The Act includes definitions, delineates what is copyrightable, and describes copyright rights and limitations.

The Digital Millennium Copyright Act (DMCA) was added to the Act in 1998, largely to conform to international treaties (note that no international copyright law exists) that dealt with technological issues, particularly online material. DMCA limits database company liability, and addresses digital preservation.

Educators and leaders also need to know about the 2002 Technology, Education, and Copyright Harmonization (TEACH) Act, which impacts copyright usage in distance education or in cases where digital information is transmitted as a supplement face-to-face instruction. Displays and performances can be disseminated only for the period of the course and only to those students who are enrolled in the course. Likewise, if teachers copy an article for a face-to-face class, then they can link to the same article online, depending on the magazine database license agreement. A better solution is for the teacher to provide the citation, and ask the students to access the article themselves from the library's database collection. However, the teacher should *not* download the whole magazine issue just because it is technically possible; that action probably does not comply with copyright law.

Further complicating matters, different countries have different copyright guidelines, so information accessed from around the world may be subject to conflicting laws; when in doubt, users should be overly conservative.

Particularly with the advent of Web 2.0 in which students can produce and disseminate information publicly, copyright applications are stricter. A few examples of technology-relevant copyright practices follow.

- Images should not be resized, cropped, or changed in context without explicit permission.

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