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CHAPTER 9

An Active Learning Approach to Teaching Copyright Essentials

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Introduction

Twenty-first-century undergraduate students are often "under-prepared" for academic work. "And then," as Nancy Noe writes, "there is the Internet." Students come in with extensive experience online but also with "broad generalizations and misunderstandings regarding issues such as copyright. Areas of intersection between scholarly communication and information literacy, including the economics of the distribution of scholarship, the increasing need for digital literacies, and the changing roles of libraries and librarians, all touch on the importance of copyright knowledge and copyright instruction.

Graduate and undergraduate students, as well as faculty, "are more likely...to experience content of all kinds as digital, easily available, reusable, and shareable" and to share research and educational works online in ways that are like publishing though they are "far removed from traditional publishing." Additionally, students' experience with social media and other everyday technological interactions are increasingly moving into the classroom in assignments in the form of "collaborative videos, wikis, or blogs" rather than (or alongside) term papers and midterms.⁶

Even with an understanding of fair use/fair dealing, it can be difficult to navigate these increasingly blurred boundaries between the classroom and the public sphere.⁷

It is vital that students develop digital literacies (including media literacy, visual literacy, and data literacy), and a key component of each of these proficiencies is a functional knowledge of copyright law and its application.8 Librarians, with their extensive experience teaching all areas of information literacy and scholarly communication, can effectively convey copyright knowledge to students.

Copyright stands slightly apart from information literacy more generally. It is an area of law in which librarians have often become the primary experts and educators within academic institutions. Librarians providing this information may not have legal degrees and even with a legal pedigree cannot provide legal advice in their roles as librarians—yet librarians are uniquely positioned to provide to their patrons holistic copyright instruction encouraging the legal use of and access to information.

Indeed, it is "critical that librarians aid [their] students' understanding of intellectual property, and their associated rights and responsibilities."10 Guidelines and best practices for information literacy instruction, ¹¹ addressing such topics as goal-setting, planning, and evaluation, can be applied to copyright education. However, additional considerations are needed to address the complexities and nuances of copyright law and its application.

An active learning approach, as opposed to passive instruction such as a lecture, can make copyright education more effective by "engag[ing] students to be fully involved and to participate in the learning process."12 Active learning pedagogies use approaches such as discussion, debate, role-playing, and hands-on use of tools and methods, ¹³ which "require the use of higher order thinking skills such as analysis, synthesis and evaluation."14

A 2012 study found that active information literacy instruction yielded

the psychological outcomes of decreased anxiety/increased selfefficacy using online library resources, improved perceptions of online library resources, and improved perceptions of librarians in terms of helpfulness and value; [and] the behavioural outcome of improved use of librarians.¹⁵

These outcomes are equally beneficial in relation to copyright education as a specific segment of information literacy instruction. The ACRL recommends pedagogy that uses "collaborative and experiential-learning activities," and elsewhere specifically notes that scholarly communication and information literacy education "is more effective when active learning, and other ways to fully engage the learner, are applied." Activities such as discussion of the rights held by copyright owners and a fair use analysis, as utilized in this chapter's lesson plan, get students interacting with and implementing the copyright concepts they are learning, enabling a deeper understanding of these concepts.

This chapter first establishes principles to guide the design and development of content, structure, and delivery for copyright education programs. These principles aim to create copyright education that interests, inspires, and empowers students to understand the many ways in which their actions online (both as academics and as citizens of the modern world) involve copyright and to make informed and confident decisions in potentially risky situations. These principles are intended to act in concert with existing best practices.

The chapter then illustrates the application of these principles using active learning pedagogy in a detailed lesson plan for undergraduate students. This approach to copyright education builds on traditional information literacy by adding elements of transliteracy, which is defined as "an [individual's] ability to use diverse analogue and digital technologies, techniques, modes and protocols." Incorporating transliteracy into this copyright curriculum further provides students with tools to understand how to create, work with, and use not only textual sources but also images, video, audio, and other multimedia works. Active learning is the ideal pedagogical approach to enable students to connect their uses of interactive technology with an understanding of the rights of both creators and users of media.

Principles

Copyright "rules" can include legislation, case law, institutional policies, and guidelines or best practices; these are complex and overwhelming, especially to those unfamiliar with copyright or legal documents more

generally. The formal nature of these, and the jargon used, can make copyright dry and difficult to learn. Copyright decisions often require interpretation or assessment of each situation and involve some level of legal risk. Critical-thinking skills and an understanding of all of the applicable "rules" are necessary to make these interpretations and decisions. 19

Copyright education needs to go above and beyond both information and digital literacies and provide students with the confidence to address copyright questions and make decisions in their coursework, their social interactions, and their future careers. The authors propose the following four principles, which establish keys to ensuring that copyright education addresses the nuances of copyright law and the risk inherent in making many copyright-related decisions.

Targeted and Relatable

Due to the complex and overwhelming nature of copyright legislation, policies, and guidelines, copyright education must be targeted to its audience. This will enable the instructor to synthesize sources and focus the content on what a particular audience needs to know. College and university copyright education audiences may be grouped by course or discipline, rank (e.g., faculty, undergraduate students), or responsibility (e.g., teaching, learning, research), and in each case the content and delivery can be planned with the needs of that audience in mind. For example, a session on theses and dissertations will discuss fair use/fair dealing differently than a session on coursework, while a session on coursework will include more detail about the institution's policies than a session on publishing. Content that is of little use to an audience can be eliminated, or at least glossed over; for example, a session for students need not cover teaching or might more specifically discuss in-class presentations instead.

A secondary principle here is that copyright education should be relatable: "By using examples of which students are aware, the librarian can help ensure that the information they are conveying is both applicable and easy to remember."20 Copyright rules and guidelines can vary in different contexts, and students are used to constant sharing and re-sharing online. Thibeault describes the shortcomings of a "compliance approach" in which "a stark contrast is made between content creators, typically depicted as corporations...and individuals who are depicted solely as consumers"²¹ and contrasts these shortcomings with the benefits of a "creative rights approach," which "invite[s] a conversation...where all people may create and...their creations deserve and receive protection under copyright."²² The lesson plan described in the latter part of this chapter emphasizes this creative rights approach immediately in class with a discussion about whether students believe they hold any copyrights, actively engaging students from the beginning and establishing the active learning approach. Many students arrive at college or university knowing little about copyright but also often believing that this knowledge is unimportant; focusing on their own rights demonstrates the importance of this knowledge in a tangible way. Such targeted approaches are taken "with the intent that the student does not passively assume the knowledge but rather the content applies meaningfully to the student's everyday actions."²³

Simplified

Due to copyright's complexity and the need for interpretation, copyright education needs to be simplified, both in terms of limiting the amount of information covered in a workshop or class and in terms of breaking down concepts and defining terminology.²⁴ Presenting information in a clear and concise manner, as well as using examples and activities, will make it easier for students to understand and relate to course material. Using active learning techniques and letting students come to conclusions instead of feeding them information may take additional time both in course preparation and in course length, but content delivered using this approach will likely be better internalized and retained by students.

While it is not possible to eliminate all copyright-specific jargon, instructors should eliminate legalese where possible and make sure to clearly define and provide examples for terms that are likely to be new to students. This is another area in which relatable examples and activities can enhance student learning. Librarians do need to be wary of over-simplifying content, however, in case important distinctions are lost; it should be clear to students what types of situations they may be able to address themselves and what circumstances might warrant seeking help. Letting students know where and how to find such help should be part of any copyright education.

Empowering

Whereas being able to apply copyright law to the most common ways of working with content in higher education was once a matter of applying a set of rules, it is now necessary to help our communities apply critical thinking skills in order to integrate a more fundamental understanding of our copyright regime.²⁵

Copyright education needs to be empowering as opposed to prescriptive. Librarians should provide copyright information and tools in a way that gives students the confidence to make decisions that may involve risk. Role-playing, such as the fair use analysis in this chapter's lesson plan, provides guided experience with assessing copyright questions. Librarians should also emphasize positives, such as users' rights in copyright law or the availability of openly licensed sources, rather than negatives or limitations.

When students learn about copyright in an empowering framework, they have the chance to practice making decisions in a relatively low-risk environment (i.e., in their coursework). This information can also begin to be applied to social media and other online situations. With multiple opportunities to make these decisions during their education, by the time the students graduate and begin to publish or work in a professional setting, they will be much more confident in identifying and addressing copyright concerns.

The copyright considerations and level of risk for students reproducing works or excerpts in a course assignment will be different from those relating to reproducing content in a thesis or dissertation, which will be different yet from risks relating to formal publishing. The extent to which librarians encourage students to make decisions themselves, instead of coming to the library or copyright office, will depend on an institution's policies or culture as well as the specific situation and the type of work being produced. The questions students bring directly to the copyright librarian can also be answered in an empowering frame indeed, many questions do not have one correct answer; instead, information can be provided to guide the student through making their own decision.

Illustrative and Interactive

Copyright can be a dense and difficult subject to learn (and teach), so copyright education should be illustrative and interactive, utilizing demonstrations, examples, and activities targeted to the specific audience. This is where active learning can be most useful for copyright education. Current news items relating to aspects of copyright or cases relating to education, for instance, provide relatable examples for students. Folk-Farber describes using "wonderfully controversial and messy" cases and news stories to pique students' interest;²⁶ on the other hand, Keener cautions that the "element of chance" in introducing real-life scenarios can be "challenging," due to the differing backgrounds, experiences, and perspectives of the students in the class.²⁷ Individual librarians will have different comfort levels for using such examples, but there are many different scenarios that can be used as illustrations. Investigating "real-life" cases intrinsically connects copyright issues to students' experiences by putting students in the shoes of users as well as creators of copyright-protected works.²⁸

In addition to demonstrations, students should be given opportunities to interact with the content through exercises, quizzes, or other activities. This interaction enhances the connections students make with the content by having them assess, synthesize, and apply the concepts they're learning. Active approaches like these increase the confidence of students in applying the concepts they have learned and practiced.²⁹

Classroom Application

These principles can be flexibly applied to the development and delivery of copyright education for a variety of audiences and in a range of formats. Providing copyright education tailored to the four principles outlined above, along with active learning approaches that encourage students to work through copyright decisions, leaves students better equipped to think critically about the wide variety of situations in both their professional and personal lives that involve copyright.

These principles provide a useful framework for delivering an effective copyright lesson, but the content of the lesson could focus on many different aspects of this area of law depending on the needs of the stu-

dents. Several dedicated undergraduate courses on copyright, such as the "Theft of the Mind" seminar at Texas A&M³⁰ and the "Copyright and You" course at Oakland University,31 have been developed in recent years; however, as much as some librarians may want to offer a full-length course in copyright, they may lack the resources or institutional buy-in to be able to get such a course off the ground. The lesson that follows is designed for librarians who care about copyright education but may have limited resources or classroom time.

A Sample Lesson

As part of a required one-credit information literacy course for undergraduates, one of the authors of this chapter has incorporated a full, seventy-five-minute lesson on copyright and fair use into her curriculum that exemplifies the principles laid out in the first part of this chapter. The lesson will be described here, and all materials related to the lesson are available at https://goo.gl/rbvw25 (materials are CC licensed). It could easily be adapted for use in a one-shot session or as part of a stand-alone copyright student workshop. Several active learning strategies are employed throughout the lesson. Meyers and Jones categorize active learning strategies by the "four key elements...[of] talking and listening, reading, writing, and reflecting,"32 and most of these elements are represented in the lesson. Some of the content and layout of the in-class portion is similar to Folk-Farber's copyright lesson,³³ but this lesson includes an additional pre-class assignment and a more robust assessment.

The lesson is comprised of three components: pre-class work, in-class lecture and practice, and homework. The lesson is aimed at facilitating the following learning outcomes:

- Students will understand the basic tenets of copyright law and apply those tenets to evaluate the likelihood of copyright infringement in real-world scenarios.
- Students will analyze the differences between copyrighted work, public domain, and Creative Commons-licensed work in order to locate creative works that have fewer restrictions on usage.

 Students will use the four factors of fair use to evaluate whether creative works that reuse elements of other copyrighted material require permissions.

Over the course of the lesson, students should become familiar with the following concepts: copyright protected works, public domain, derivative work, Creative Commons, and fair use. Students will be introduced to and should be able to apply some basic copyright principles, and they should come away with a broad sense of the role that copyright plays in the information economy and public access to information.

Pre-Class

Before the class session about copyright, students are asked to complete several readings that introduce them to some of the concepts in the lesson. One reading is Dewey's report of a photography firm suing a small blog over the use of a portion of a copyrighted image in a meme posted on the blog.³⁴ The topic of the article helps to make the unfamiliar concept of copyright more relatable by showing how memes, which students encounter and maybe even create in their leisure time, can be the subject of copyright disputes. It also illustrates the complex task of balancing free speech and creativity with intellectual property rights and how, in some cases, money can tip the balance, giving the students a big picture view of how copyright can affect the flow of information and culture. Other reports about copyright and popular culture could be substituted for this particular reading.

The other assigned pre-class readings include Faden's video, *A Fair(y) Use Tale (NOT a Disney Movie)*,³⁵ a cheeky rendering of the fair use exception of copyright law and an infographic, video, or reading about the basic tenets of copyright law. These materials help to introduce the content of the class and provide a base level of information about the topic that the students expand on or clarify during the in-class activities.

Students are asked to write two paragraphs reflecting on at least one of the readings and to post their responses in the class forum. They are also asked to reply to two other students' posts, and sometimes interesting discussions ensue. A handful of students have dealt with copyright issues through involvement in a student club or a personal hobby, so they have some awareness of the issues. Some students think that lawsuits like the one described by Dewey³⁶ are an abuse of copyright protection and that the current term of copyright is too long, but others are in favor of strict enforcement of copyright law and a lengthy term. Students' misconceptions about copyright also tend to come to the surface in these discussions, such as the notions that ideas are copyrighted, that content available for free online is not protected by copyright, or that using a copyrighted work is legal as long as credit is given. These discussions reveal important information about student knowledge on the topic and the gaps therein which can help to guide the direction and emphasis of the in-class instruction. Reflecting on a reading is also an active learning strategy that requires students to be actively engaged with the course materials and content.³⁷

In-Class

This lesson includes a lecture and discussion portion to reinforce information from the readings and correct student misconceptions followed by an interactive component that allows students to apply the concepts to real situations. Students are asked to actively participate in the discussion by evaluating a series of statements about copyright using facts they learned from their pre-class assignments. Some of the statements also build upon previous ones, and the instructor encourages students to recall previous statements to help them reason out whether later statements are true. Such a structure for the lecture encourages active listening and problem-solving on the students' parts as they move through the content of the lesson. This approach emphasizes the learning process over grades and correct answers, which research has shown to be effective at fostering critical-thinking skills and higher-order thinking.³⁸ The first statement that students evaluate is whether anyone in the room owns a copyright. Students are told that if they do own a copyright, they should raise their hands. Generally, very few students raise their hands. Students are then asked if they have ever done any creative or research writing, painted or drawn something, made a video or audio recording, or taken a photograph. Generally, every hand in the classroom is up by the end of the list, and students get the big reveal that they are, indeed, all rights holders

for things that they create all the time. At this point, students often have questions about specific types of work and whether they can be copyrighted, so the instructor can discuss the criteria that a work has to meet: it must be original, it must be creative, and it must be a tangible work (not just an idea). Students are then asked whether the © symbol is required for a work to have copyright protection. The instructor gives them a hint by reminding them that they are rights holders. The instructor then informs the students that no formalities are required to hold a copyright on a work, but they can be beneficial in certain circumstances. Sometimes at this point in the lesson, a student mentions an example of something that would be covered under trademark or patent law, providing the instructor with the opportunity to discuss how such works indeed fall under the umbrella of intellectual property but are governed by different rules that will not be detailed in the lesson.

After discussing which types of work can be protected by copyright, the instructor proceeds to explain the bundle of exclusive rights held by copyright owners and the term of copyright. To introduce the exclusive rights, students are asked whether the translation of a copyrighted work is permitted without permission, which leads to a discussion of the other exclusive rights that copyright holders have (the rights to copy, distribute, broadcast, perform, and create derivative works). The Phantom of the Opera is used to illustrate the concept of derivative works, as it has many derivatives including translations, film rights, and a musical rendition of the work. The discussion of *The Phantom of the Opera* also provides the instructor with a transition to the concept of the public domain because the novel and the original film version are both in the public domain. Students are informed that current copyright laws provide that works are protected by copyright for the duration of the life of the author plus seventy years or ninety-five years for works by a corporate author. The "quiz" concludes by asking the students if the statement "If something is posted on the internet, anyone can use it however they want because it becomes free information" is true or false. The instructor reminds students of the facts of the lesson to this point to try to elicit a response of "false" to this common misconception. At this point in the lesson, many students are able to recognize that posting a work online does not negate the copyright protections that are automatically bestowed when the work is created.

Students often conflate the concepts of copyright infringement and plagiarism, so the next part of the lesson includes a discussion of the distinctions between the two concepts while introducing some resources to help students avoid infringement. In this portion of the lesson, students learn about the public domain and Creative Commons (CC) licensing, including how to search for CC-licensed images and videos on Google and YouTube. Finally, the instructor provides a brief overview of the four factors of fair use with special attention paid to the concept of transformative works.

In-Class Activity

The concept of fair use can often leave students scratching their heads, unsure of what to make of it, so the last part of the class is dedicated to analyzing a video that reuses portions of previously copyrighted work. Before watching the video, students are given a handout that has a table with the facts about copyright that were covered in class on one side and a summary of the four factors of fair use on the reverse. The class then watches the video, *MORE NFL—A Bad Lip Reading of the NFL*.³⁹ It is a mashup of footage from NFL games with the people on screen saying funny, nonsensical gibberish. A comedy video is a good transition from the heavy and sometimes difficult-to-grasp facts of copyright and helps students to understand how the factors of fair use apply to real-world situations. The mood of the class noticeably lightens during the video.

After watching the video, students complete a fair use analysis of it, looking at each of the four factors to determine if the use of previously copyrighted footage in the video is fair or not. The students become very engaged during this portion of the lesson, working in small groups and discussing how to apply the four factors to the video. If students are reluctant to work together, the instructor encourages them to talk through their ideas with a partner or two because speaking out loud requires more clarity and organization than silent thought, thus more actively engaging students with the content. The instructor also wanders the room answering questions and asking students to rethink answers where they've made mistakes. Interaction between students and between students and their instructor is crucial to the "talking and listening" element of active learning. When the conversation starts to die down, the entire class

compares their answers. For factor one (the purpose of the use), students easily identify the entertainment purpose of the use, which is considered unfavored, generally, by courts interpreting the fair use factors. Other purposes that students sometimes identify are transformative and/or parody (favored) and possibly commercial from YouTube ad revenue (generally an unfavored purpose or use). For the second factor, students are usually quick to determine that the nature of the copyrighted source material (footage from NFL broadcasts) is in the genre of a documentary or nonfiction work (which is more protected under fair use). Students have some difficulty with the third factor. The video is about three minutes long, but each clip used is only a few seconds long and the clips appear to come from many different games, so the amount of copyrighted material borrowed from each work is minuscule. The clips are also unsubstantial, showing inconsequential moments as opposed to the heart of the work. Lastly, students easily conclude that the video is unlikely to have any impact at all on the market value of NFL broadcasts.

In making a final determination as to whether this video is an example of fair use or not, students are asked to consider whether the video would serve as an acceptable substitute for the original work (a broadcast of an NFL game). Most understand that it would not, and based on the entirety of the fair use analysis, they generally agree that the video is likely an example of fair use.

At the conclusion of the in-class activity, students are asked to search for a Creative Commons-licensed image using Google Image search. After locating one CC-licensed photo, they look up the terms of the license on the CC website and explain how one would reuse the image while abiding by the terms the author has set out.

Assessment

The intent of the lesson is to make the students aware of copyright while they interact with content in their academic, personal, and professional capacities and to give them tools and resources to help them recognize and solve copyright problems that they encounter. To reinforce the lecture and in-class exercise content, this lesson includes a homework assignment comprised of three realistic scenarios to which students should

apply the concepts covered in class. The first scenario is an example of a Shakespeare play being adapted for a community theater. The second scenario is about a student sharing an idea with a friend who then steals it and creates a work based on the idea. The third scenario is a situation that requires a fair use analysis of a piece of student work that parodies a popular sitcom. The final exam for the course also includes an open note essay question with a scenario in which a friend steals a photo from someone else's social media and begins selling prints of it after making some small edits, justifying the theft by claiming that publicly posted works are not protected by copyright. Students are asked to respond using their knowledge of copyright and fair use.

Results

Over three semesters, 156 students were enrolled in courses in which this lesson was taught with 132 completing and submitting the homework assignment and 148 sitting for the final exam. The authors believe that fewer students submitted the homework because it is a less substantial portion of the final grade than the exam.

The Shakespeare play mentioned in homework question number one was correctly identified as being in the public domain by 71 percent of the class participants. For question two, 87 percent of the participants recalled that an idea is not copyrightable, so using someone's idea does not constitute copyright infringement. For the third question, 73 percent of the students correctly identified that a student work that parodies a sitcom for a class assignment would likely be considered a fair use. The final exam question was graded on a points scale based on the thoroughness and correctness of the answer. Students scored an average of 75 percent on this question.

Conclusion

A working knowledge of copyright is essential to twenty-first-century college graduates as they prepare for their professional and personal lives lived in the digital age where sharing and remixing content is an essential mode of interaction. Librarians have the background and the position on

campus to meet the need for training on this important but sometimes overlooked aspect of information literacy.

Copyright is a complex area of law, but by putting together a lesson that is targeted and relatable, simplified, empowering, and illustrative and interactive, librarians can help students to gain the skills and knowledge they need to navigate copyright issues. The sample lesson provided follows these principles and has been effective in raising copyright awareness among students. Its focus on student as author makes the content relatable. The discussion of Creative Commons and fair use empowers students to know how to legally use information. Finally, the use of active learning approaches to walk through real-world activities and examples makes it illustrative and interactive. These principles and the accompanying sample lesson can enable any librarian with a role in instruction to effectively teach undergraduate students about copyright.

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