New Directions Snapshot on Intellectual Property/Copyright and Scholarly Communication

Overview

Important to look at copyright as a multi-sided issue:

1) The use of copyrighted materials in teaching and research. This includes:
   - fair use of materials for reserves, course readers, photocopying, public performance (full book copying, orphan works, works in public domain)
   - understanding appropriate conditions of user for online, licensed resources and digital rights management issues
   - permissions: granting permissions to outsiders for the use of Berkeley owned materials and seeking permissions for Berkeley faculty to use copyrighted materials in their own research and publishing ... (partnerships with Google, etc.), preservation issues ...

2) Managing of rights for owners and creators:
   - retaining rights so that authors may legally reproduce, redistribute and make derivative works

National trends

- Digital technologies have resulted in easier production and distribution of materials (i.e. digitization projects by Google, Yahoo, Microsoft, Open Content Alliance)
- Intellectual Property issues are about creation and control - increasingly, creators are retaining control...not signing away rights...this is a basic value in scholarly communication initiatives
- The “digital dilemma” pits compensatory needs of creators/compilers/ producers (i.e. private interest/compensation/profit) against the public good. The balance conceived in original U.S. copyright law becomes more difficult as challenges on both sides proliferate. The corporate sector continues to try to move copyrights into commerce law, which trumps copyright law (no fair use).
- Desire for open access (“Information wants to be free”) - NIH and Harvard’s recent open access policies; SPARC (http://www.arl.org/sparc/). Social networking and collaborative work requires more risk-taking and more understanding of copyright law.
- Intellectual Property is increasing in value - there is big money at stake
- Definition of IP is expanding - industries previously without IP are claiming the right to it
- IP Law is becoming more complex, especially with internet growth and globalization (DMCA, continual copyright term extensions (will Mickey Mouse lead the way again??), Digital Rights Management or Digital Restrictions Management?).
- Orphan Works - still not resolved
- Efforts outside the academic institutions have grown to help creators retain control of their works (i.e. Creative Commons, ARL, etc.)
- Organizing and coordinating efforts by professional associations and non-profits has increased to examine relevant copyright law and influence national developments, including legislation (i.e. Electronic Frontier Foundation, Section 108 Study Group, OCLC/RLG, etc.)
- University management of IP is relatively young, but establishment of Copyright/Intellectual Property offices or services for students and faculty have developed of necessity in academic institutions, replete with information and training resources (i.e. Columbia , Cornell, UTA, etc.). These are in addition to patent and technology transfer offices. Some campus sites of interest in the area of information programs or services concerning IP/copyright/scholarly communication:
  - Columbia University Library/Information Services, Copyright Advisory Office: http://copyright.columbia.edu/ (Indiana had the first “Copyright Management Center ,” but it is being disband ed, since Columbia stole Kenneth Crewes, their director!)
  - Cornell University, Copyright Information Center: http://www.copyright.cornell.edu/
  - Stanford University Libraries’ Fairuse and Copyright website: http://fairuse.stanford.edu/
  - Syracuse University Library: http://library.syr.edu/copyright/
  - University of Maryland, Center for Intellectual Property (also home of the Collecteana blog): http://www.umuc.edu/distance/odell/cip/cip.shtml
  - University of Minnesota Libraries: http://www.lib.umn.edu/copyright/
Local issues at Berkeley: stakeholders

Many units on campus are affected by copyright issues:

- The Library
- Educational Technology Services (ETS)
- Information Services and Technology (IS&T)
- Office of Educational Development
- Office of Student Conduct
- Copy services
- Individual students and faculty

Unique opportunity for cross-campus (and systemwide) collaboration. (UC Office of General Counsel is considering copyright issues for the first time with recent assignment of Mary McDonald to oversee intellectual property and especially copyright issues. At the campus level, however, only support is from Business Contracts Office, which has limited staff and portfolio much broader than copyright.)

Opportunities for New Directions

Develop a copyright interest group or “virtual copyright office” made up of stakeholders from throughout the campus to oversee a variety of copyright services:

1) Copyright hotline: this service could provide point-of-need information, advice and consultation on:
   - fair use
   - helping in identifying when work may be in the public domain
   - obtain permissions via the Copyright Clearance Center
   - help authors manage their rights
   - providing consultative services upon request for permissions, orphan works, publications and contracts
   - see Syracuse University Copyright Inquiry Form http://library.syr.edu/copyright/sucac.html#inquiry

2) Faculty training/workshops:
   - use of materials in teaching, especially determining of fair use
   - managing authors rights, including promotion of open access publishing
   - crash course in copyright (see: http://www.utsystem.edu/ogc/intellectualproperty/cprtindx.htm#top

3) Other types of user education and outreach (webpages, handouts, etc.):
   - appropriate conditions of use for licensed resources
   - information for students on file sharing, music downloading, plagiarism, etc.
   - use of materials in teaching and research (see items 1 and 2 above)
   - managing authors rights (see items 1 and 2 above)
   - copyright best practices for digital courses (i.e. http://sunews.syr.edu/copyright.cfm)
• explicit instructions on how to link to licensed material in lieu of downloading
• digital rights management guidelines
• Copyright decision tool and Fair Use Analysis Tool (i.e.: http://www.lib.umn.edu/copyright/ )
• FAQ and answers for quick reference by users

4) Monitor legislation as it relates to copyright and fair use.

Implementation questions

• What would the functional organization of this “virtual copyright office” look like? Who would it report to?
• What is the Library’s role?
• Do we need to hire an attorney specializing in intellectual property?
• How do we maximize faculty and student use of the services?

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