Questions & Answers — Copyright Column

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QUESTION: (1) Should an academic library now institute a 10% rule for reproducing material from books because of the Georgia State University decision? (2) Is it better to place a copy of the book on reserve if the faculty member has asked to have too much duplicated for reserve?

ANSWER: (1) The judge issued her opinion in the Cambridge University Press v. Georgia State University decision in May 2012. One of the surprising holdings was that for books, it is presumably fair use to copy one chapter of a book or 10% of a work for e-reserves for course management software. While a library may want to follow this holding, it is applicable only in the Northern District of Georgia. Further, the plaintiff publishers have appealed the ruling which primarily was decided in favor of the defendant, Georgia State University.

(2) Placing the book itself on reserve is certainly an alternative when the faculty member asks that too large a portion be reproduced for reserve. When books are put on reserve, no copyright issue is raised since the library is not reproducing the work. Other alternative are to seek permission and pay royalties if requested or to take a campus-wide Copyright Clearance Center license.

QUESTION: A law librarian is working with a group of librarians to develop a Webinar for a regional law library association’s meeting. For the Webinar, the group wants to use movie clips. (1) Is it possible to use the clips at all? (2) If yes, how many clips can be used? (3) Is there a limit on the length of each clip?

ANSWER: If this were a course offered by a nonprofit law school or any other nonprofit educational institution for enrolled students, even students enrolled in a continuing legal education course taught by the school, use of the film clips would present no problem. Section 110(1) of the Copyright Act, the face-to-face teaching exception, permits performance of an entire film to a class as a part of instruction. If this were a Webinar for enrolled students in a nonprofit educational institution, then reasonable and limited portions of films can be used. Because a Webinar is transmitted, the amount that can be performed is more limited under section 110(2) than for face-to-face teaching.

If a Webinar is transduced material from books because of the dynamo publisher woman, to avoid plagiarism. Moreover, it helps users to know the source of the article.

QUESTION: An academic library purchases DVDs for use in face-to-face teaching activities as a part of course instruction. (1) Does this fall under the protection of fair educational use so that no additional licenses need to be purchased? Many vendors of academic films offer copies of their films for both home use and institutional use, with institutional use at a significantly higher cost. (2) Should the library purchase films at the institutional rate?

ANSWER: (1) Actually, purchased videos used for face-to-face teaching are covered by section 110(1) of the Copyright Act, the classroom exception. While fair use likely permits performing small portions of a film, it is the classroom exception that allows faculty members to perform the entire work for a class in face-to-face teaching in a nonprofit educational institution if the performance is a part of instruction. Some vendors have been known to mislead schools and indicate that a performance license is needed even for face-to-face teaching, which is inaccurate. (2) The higher institutional rate usually permits public performances in the institution outside of the face-to-face classroom. So, if the institution is interested in using the films for student clubs in the evening, community viewings, etc., then the institutional rate includes these rights. Of course, one needs to read each vendor’s license agreement to ensure that the higher rate actually provides the rights needed.

QUESTION: May an archival collection reproduce a photograph of Sammy Davis, Jr., that was taken when he appeared at a civil rights rally on campus? Is there any copyright information on the photograph?

ANSWER: Oddly enough, neither Mr. Davis nor his heirs likely own the rights in the photograph. It is the photographer who owns the copyright typically. It is possible that the educational institution owns the copyright if the photographer was an employee, i.e., staff photographer. With no information on the photograph about the photographer, it is difficult to determine whether the work is still under copyright or even who owns the rights. The question does not specify the purpose of the reproduction or whether a single additional copy is being made for scholarship and research or if reproduction means publishing the photograph in a publication or posting it on the Web. The risks are different for each type of reproduction.

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director of the company. Send nominations to: Caitlin Moen, Harrassowitz Award for Leadership Jury <librariancaitlin@gmail.com>. Visit the HARRASSOWITZ Award for Leadership in Library Acquisitions page at ALCTS for more information: http://www.ala.org/ala/mgrps/divs/alcts/awards/profrecognition/leadershipinacq.cfm.

Got a wonderful message the other day from the dynamo publisher woman, Lynne C. Riener <lcr@riener.com>. I mentioned Lynne and the fun we had in a café in the Charleston Market in Rumors a few issues ago (see ATG, v.24#2, p.45). Lynne said it took her on a trip down memory lane, and she promises to really visit us at the 33rd Charleston continued on page 97

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