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From Crisis to Opportunity: A Licensing Audit How-To

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Abstract

In June 2013, the University of British Columbia (UBC) Library completed a 6-month project that involved the audit and analysis of over 700 licensing documents. Long overdue and the result of nearly a year of planning, the project brought about the successful implementation of an electronic resource management system, Serials Solutions's 360 Resource Manager, and the reorganization of the UBC public-facing license permissions database.

This paper follows the evolution of the UBC license reanalysis project from its inception to conclusion and emphasizes the influence of the changing copyright environment in Canada and institutional perceptions of risk. The development and deployment of a license management system is a fundamentally complex process; project management, data standards, and an iterative approach were all central to the project's success.

Introduction

By 2010, the University of British Columbia (UBC) Library held over 700 active license documents with various publishers and vendors. Without an electronic resource manager (ERM) or electronic repository, these documents and the terms of use they outlined were not easily accessible. Over the following 2 years, UBC prioritized the need to restructure the way in which electronic resource licenses were managed and invested considerable time and effort into planning and budgeting for such an undertaking.

The UBC license reanalysis project commenced in January 2013; with an estimated 6-month timeline, the aim of the project was to audit and analyze the Library's electronic resource documents to make terms of use readily available, improve document and data management, and support future license negotiations. This concentrated effort was the result of several key events and considerations.

Background

A combination of factors, when reviewed in unison in 2011, led to the planning and creation of the UBC license reanalysis project. Several were long-standing issues that had not been addressed and were becoming increasingly problematic for

UBC. For example, the Library did not have a formal workflow for recording license permissions; at a fundamental level, the Library's knowledge management practices were insufficient (Nelson, p. 135). Work processes were not always documented, and institutional knowledge was lost when staff members retired or moved to a different position. When questions about license terms were raised, it could be difficult and confusing to retrace the acquisitions history and correctly identify the license that matched the e-resource under question. Such pre-existing issues, in combination with new concerns and activities, prompted action.

In fall 2010, the Library launched an in-house license permissions database, dubbed Mondo License Grinder, and in the new year UBC began a subscription to an ERM, Serials Solutions's 360 Resource Manager. The full impetus to organize and analyze licenses in a more standardized and documented manner, however, came later on in 2011 when UBC, and other Canadian universities, decided to operate outside of the Access Copyright, the Canadian Copyright Licensing Agency, interim tariff in response to its significant price increase and position on surveillance (Farrar, 2011).

The 6 months leading up to the January 2013 launch of the license reanalysis project ushered in

significant changes to the Canadian Copyright landscape. In July 2012, The Supreme Court of Canada's pentology decisions expanded the scope of Canadian Fair Dealing (Trosow, p. 226). Then in November 2012, Bill C-11, which introduced changes to the Copyright Act, came into force. Notably, Bill C-11 "broaden[ed] the scope of the fair dealing exception to specifically include education, in addition to research, private study, criticism and review" (The University of British Columbia, 2013).

This confluence of events bolstered internal support for a licensing knowledge management project at UBC, and the library's newly developed Scholarly Communications and Copyright Office generated the funding for three new Licensing Specialist positions, one an ongoing position and two project-based positions. With additional staffing and training, the newly formed licensing team created a standardized workflow to reanalyze and codify the information in UBC's e-resource licenses. A review of the literature showed instances of the documentation of licensing terms carried out at other institutions, which helped in the development of the UBC mapping form and glossary for the reanalysis project (Leffler & Zuniga, 2010).

Project Goals

The primary goal of the license reanalysis project was to implement and populate the Library's ERM to enable proper management and tracking of license documents. Alongside this capacity, a secondary goal of equal or greater importance was to clearly communicate license terms to the UBC community. In order to achieve these goals and ensure the longevity of the new license management system, the licensing team devised a set of standards for populating data into the Library's ERM and Mondo database. In standardizing the framework for data input, the Library also intended to realize a project priority of creating a license environment where strategic renegotiations are better supported; the ability to easily query the ERM to identify terms of use that required renegotiation would allow the E-Resources unit to better serve the teaching and learning needs of the university.

Project Activities

Before analyzing the license documents and populating the Library's ERM, the licensing team first developed a coding methodology for interpreting and organizing license permissions data. The aim of the methodology was to provide clearly defined parameters and frameworks for reading and analyzing license terms and to organize valuable data points in a reliable, sustainable, and accessible manner. The documents central to the methodology were the UBC-developed license mapping form and license glossary. Created in tandem, these documents kept the project within scope and allowed multiple staff to work together with a clear understanding of the project objectives and terminology.

The mapping form (Figure 1) outlines the ERM fields chosen to be populated during the audit. The form restricts both what and how information is stored. In developing the form, the licensing team agreed that a central principle of the project would be to balance comprehensiveness against sustainability and time constraints. The group agreed from the outset that it would focus on terms of use and document details that were either of benefit immediately or anticipated to be of benefit in the near future. Out of over 80 potential data points, the licensing team managed and populated 15 document details and 38 terms of use fields for the audit.

Licensing staff created a license glossary to navigate the mapping form. Because of the wide range of license terms across publishers and from license to license, the Library formalized UBC-specific definitions for license terminology to ensure documents would be categorized and read consistently. The glossary also provides examples of interpretations, if/then scenarios, and illustrations of how the data should be formatted in the ERM. Free text fields, particularly those that contain more than one data point, were formatted so that the data could later be exported, analyzed and updated if necessary.

Serials Solutions 360 Resource Manager License Fields - University of British Columbia Library
Mapping Form for Licenses

Field Name	License Terms	Local Notes	Public Display
GENERAL LICENSE DETAILS			
Name [C]		Vendor/Publisher - Product - Doc Type (e.g. License) - Year	
Resource		Attach to resource(s) this license governs at appropriate level	
Type (For Renewal Agreement, Purchase Agreement, or Addendum see Other Mapping Form) [C]	Negotiated License / Click-Through / Manifest Assent / Shrinkwrap / COPPUL / CRKN / BC ELN / e-ILbc / Other Consortium / SERIU		
Vendor License URL		Input Click-Through or Manifest Assent URL	
Local License URL [C]		Input URL for doc uploaded into the Mondo repository (negotiated, click-through, manifest assent, SERIU), or the consortium URL (see Glossary/Best Practices doc for details).	
Physical Location	TS Filing Cabinet		
Status [C]	In Negotiation / Ready for Mapping / Entry in Progress / Active / Expired / Failed		
Reviewer		This field is "Teresa Lee" by default. For consortia licenses, leave blank.	

Figure 1. 360 Resource Manager License Mapping Form

Several other documents were created to support the reanalysis project. The License Interpretation document lists examples of license language by use type (e.g., course handouts, Fair Dealing interpretation, etc.). Following each example is a justification for whether the license permitted or prohibited a particular use. This document allowed the licensing specialists to consistently interpret license terms and learn from one another's findings. The Team Decision Log tracked changes to the project and methodology for future reference.

With the license coding methodology, the licensing specialists audited and analyzed all active licensing documents; this included licenses, renewal agreements, addendums, and correspondence. Once analyzed and mapped, the coded license documents were entered into the library's 360 Resource Manager and select permissions were recoded into the UBC-built Mondo License Permissions database. An electronic copy of the license document was also uploaded into the Mondo Document Repository. The password-protected repository assigns each document a unique URL. The URL was entered into the corresponding ERM record to ensure direct access to a copy of the document in question.

Project Benefits

The most immediate benefit of the project has been that of having a dedicated license management system populated with useful data. The ability to generate reports on key factors such as ILL rights, postcancellation rights, LOCKSS and Portico provisions, and the inclusion of content in learning management systems has proven to be of significant value. The reporting capacity of 360 License Manager is potentially of benefit to other members of the library as well. Beyond the e-resources team, fund managers, selectors, and others can easily locate and refer to licenses when assessing the value and return on investment of the library's e-resources.

In auditing the library's full collection of licenses, the licensing team also traced acquisition histories and performed related maintenance tasks. Disambiguating and documenting subscription histories in the ERM has enabled the Library to more easily track title coverage and permission changes when publishers are bought out or consortial packages replace direct subscriptions. This investigative work also prompted the reorganization of some items within the knowledge base to clarify relationships between licenses and resources.

In work of this nature, where the goal is a unified and consistent approach to something as complex as the interpretation of legal contractual language, intercoder consistency is essential. The licensing team used weekly coding meetings and one-on-one troubleshooting to achieve a high degree of consistency. As a training measure, each member individually analyzed sample licenses that presented certain license challenges, such as ambiguous or restrictive language. Comparing the independent interpretations allowed the team to construct an approach to the analysis process that was not merely proscriptive. Monthly meetings with university counsel also helped to refine and further the licensing team's results. The discipline of weekly peer review and shared accountability has served as a model for developing similar iterative projects within the e-resources team.

Another important though less tangible benefit of the license reanalysis project has been the strengthening of existing relationships and the forging of new collaborations with library and campus partners such as the copyright office, the interlibrary loans division, the campus bookstore, library IT, and university counsel. Working collegially and iteratively with these groups made it possible for the licensing team to understand the full range of stakeholder needs and to actively and thoroughly support these campus partners who rely on the licensing unit's communications about license terms.

UBC's readiness to communicate license terms to users at their point of need not only reflects the Library's commitment to due diligence in ensuring compliance with license terms; it also signifies the Library's new ability to take full advantage of the resources and permissions for which we pay. The Mondo public permissions pages allow library users and staff alike to quickly check the most commonly asked questions about terms of use. The UBC Bookstore can now quickly determine whether parts of an electronic resource can be incorporated into print course packs without incurring additional costs. Alongside a reliance on Fair Dealing, the cost of UBC course packs has dropped on average by 33% this fall (Cowin, Farrar, & Buszard, 2013). This measurable benefit to the UBC community exemplifies the success of the reanalysis project.

Moving Forward

With the completion of the license reanalysis project in June 2013, the E-Resource and Access Librarian and Licensing Specialists are free to focus on routinized work and new developments. A populated ERM allows the review of existing license terms to be greatly simplified. Queries from UBC library users about permitted uses for licensed resources are now efficiently managed and more confidently answered. Comparisons can be made easily and quickly to identify discrepancies between licenses and to pinpoint ideal language. This expedites license negotiations and allows the library to press for clearer and more concise terms that cover the broadest range of educational uses.

Through the reanalysis project and consultations with the University's legal advisors, the licensing team has identified the tactical and legal importance of inserting a Canadian Fair Dealing clause in all new and renegotiated licenses whenever possible. This is largely because of developments in Canadian copyright law which led the Association of Universities and Colleges of Canada (AUCC) to advise that under fair dealing limited excerpts of copyrighted works may be distributed as a course handout, as part of a course pack, or as a posting to a secure learning management system (Fair Dealing Policy for Universities, 2013). The implementation of data standards within the Library's ERM allows for renegotiated terms or changes in the interpretation of Fair Dealing to be easily updated.

The data standards created for the project have also allowed UBC to advance related e-resource initiatives. A resource renewals project commenced shortly after the completion of the license reanalysis project. Liaison librarians had long been requesting a comprehensive schedule of annual renewals to allow for more data-driven analysis and decision making. Using the workflows built for the license reanalysis project, the resource renewals project was planned and executed much more quickly than expected. The pre-existing project framework and ERM data standards were transferable, and will continue to facilitate future ERM project work.

Conclusion

UBC's approach to planning and executing the reanalysis project created an adaptable and forward-thinking practice for license management. Although the fundamental goal of the project was simple, the outcome will have a lasting effect on licensing- and collections-related workflows at UBC. By making relatively short-term staffing and funding commitments, UBC was able to ensure the implementation of practices that are expected to have a long-term impact on cost and efficiency. The Library now has a self-service model for staff and users to verify terms of use for

e-resources that is supported by a sturdier backbone of ERM data. The Library's strategy for document and data management has also created an environment where interpretations and terms can be easily identified, analyzed, and updated if necessary.

Despite the seemingly static nature of license documents, the community's continuously changing needs have demonstrated the need to be flexible; variations on current uses and new requirements for accessing and using electronic resources will no doubt require license terms to be re-examined and renegotiated.

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