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Christine Fruin
University of Florida, christine.ross@ufl.edu

Trey Shelton
University of Florida, tshelton@uflib.ufl.edu

Aimee Barrett
University of Florida, aimbarr@uflib.ufl.edu

Allison Jai O'Dell
University of Florida, ajodell@ufl.edu

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“We’ll Do It Live”: Building Access to Video Content Based on Freedoms of Use

Christine Fruin, Scholarly Communications Librarian, George A. Smathers Libraries at the University of Florida

Trey Shelton, Interim Chair of Acquisitions and Collections Services, George A. Smathers Libraries at the University of Florida

Aimee Barrett, Print and Media Unit Manager, George A. Smathers Libraries at the University of Florida

Allison Jai O’Dell, Metadata Librarian, George A. Smathers Libraries at the University of Florida

Abstract

Film collections in academic libraries, including streaming video and DVDs, serve a variety of user populations and needs. Videos are used by faculty as part of instruction, by student clubs or other groups as part of public programming, and by individuals for personal study or entertainment. These various use situations are addressed by the Copyright Act, 17 U.S.C. sec. 101 et seq., and license agreements that accompany video purchases. To maximize use of video collections, and by extension, funds expended on video collections, libraries need to fully understand their rights under the law, track video licenses, and build access around freedoms to stream and publicly display videos. The George A. Smathers Libraries at the University of Florida undertook a project to identify videos acquired with public performance or streaming licenses and better communicate the existence and meaning of these licenses to users. This project included new workflows for cataloging and acquisitions, training for library faculty and staff on uses of video allowed under the Copyright Act and when a license should be obtained, and proposal of a front-end search and browsing discovery interface for users to find video content by public performance and streaming rights. This paper discusses the mechanics of acquiring, cataloging, and making discoverable video content based on freedoms of use.

Introduction

Film collections in academic libraries, including streaming video and DVDs, serve a variety of user populations and needs. Films are used by faculty as part of instruction, by student clubs or campus groups as part of public programming, and by individuals for personal study or entertainment. That is, academic library film collections are in high demand—and users want to know how they can access and use film content. Part of that knowledge should include an awareness of what public performance rights are available, when such rights are needed, and what content can be streamed remotely. When users do not understand the access and performance options for video content, they contact the library. At the George A. Smathers Libraries at the University of Florida, reference/public service, course reserves, and acquisitions/e-resources personnel, as well as the scholarly communications librarian, receive frequent inquiries on the appropriate usage of DVDs and streaming video for classroom and online instruction and also for public performances, such as film

showings by student clubs and the University’s museums. In an effort to better capture and communicate the available use rights for the libraries’ physical and streaming video collections, librarians and library staff from the departments of Scholarly Communications, Acquisitions and Collections Services, and Cataloging and Discovery Services undertook a project to track and code public performance rights (PPR) and streaming license data, and incorporated this metadata into the catalog records for video titles purchased since 2005. The results of this project allow users to discover over 1,100 DVD titles and over 17,880 streaming videos with PPR via a rights statement search. This paper covers the impetus for the project, the process of documenting public performance rights and streaming licenses in the library catalog, impacts on staffing and workflows, and discovery options for library users.

Review of the Literature

Both scholarly library literature and reports prepared by commercial video vendors establish the demand

and use for video in higher education, the challenges in making academic library video collections discoverable, and their available uses understood by patrons. In 2015, video platform company Kaltura issued a report entitled "The State of Video in Education" (Kaltura, 2015). In this report, respondents, which included instructors, instructional designers, students, and others from institutions of higher education as well as K-12 schools, provided insight into the various use cases of video in education. Of the respondents from higher education institutions, 83% reported that video was used in the classroom, and 52% of those same respondents indicated that video was used in live campus events. Further, the Kaltura report not only demonstrated the current importance of video in education, but it also established that video will continue to be or grow in importance or use. Of all respondents to the Kaltura survey, 87% stated that video will play a major role in education in the future.

Publisher SAGE issued a similar report that focused exclusively on students in higher education (Leonard, 2015). In that report, 68% of students indicated they watched videos in class, with 53% of those videos falling within the category of documentary film. However, most students polled in the SAGE survey indicated an unawareness of the availability of videos from their campus library. The problem of awareness of video availability at the college library was also noted by the founder of Alexander Street Press, a primary vendor of streaming video content. In 2013, noting the variety of uses of video on campuses and across curriculum, he noted the challenges libraries encounter in making video content discoverable and its uses known to patrons: "Of course video presents challenges. But these challenges are similar to those that librarians and publishers have already surmounted in electronic journals and books. How to catalog? How to establish provenance? How to cite? How to digitize? What preservation standards? How to index? What technologies to use? What are the copyright issues? What should we look for in licensing?" (Rhind-Tutt, 2013, p. 14).

In 2010, a Minnesota State University librarian explored the historical obstacles to discoverability and accessibility of video collections in academic libraries (Bergman, 2010). She notes that patron awareness and use of video has been hampered by library policies concerning lending and circulation as

well as problems with deteriorating formats and the availability of playback equipment. Licensing of video content and comprehension of those licenses by library staff has also complicated matters. These historical access issues have likely contributed to present confusion among patrons about what videos are available in a library's collection and how those videos can be used in instructional, community, and entertainment contexts. Similarly, a 2016 article noted the challenges of making video collections discoverable through library systems. Most discovery systems utilized by libraries, the author notes, were built for text-based collections and lack features that will maximize the discoverability of video collections (Hoover, 2016).

Even if discoverability of video collections by patrons is realized, however, usage of those videos may be further impeded by a lack of understanding of copyright law, when the law permits film showings, and when a public performance license is needed. Unfortunately, misunderstanding about the law of showing films in instructional settings stems from misrepresentations on vendor websites and in licenses about the appropriate usage of videos by academic libraries and the patrons they serve (Butler, 2011). Language included on vendor websites and in licenses frequently confuses and confounds librarians. Vendors, whether intentionally or as a result of their own misunderstanding about copyright law, will charge a higher price to libraries merely on the assumption that the videos will be used in the classroom. Librarians and others frequently infer from this that a license is being granted for classroom use, which is not required by law. The Copyright Act at section 110(1) grants teachers at nonprofit institutions an exception that allows the screening of films in the classroom when such performance is related to the pedagogical objectives of the course. No license is necessary for such performances. Public performance licenses are required for other types of performances, however, such as film festivals or screenings by student clubs, even when no admission is charged. These licenses are often automatically included in the purchase price paid by libraries to vendors, but the terms of those licenses are not always clearly stated, and libraries do not regularly track those licenses or share the availability of those licenses with patrons, further contributing to confusion about when and what licenses are available with videos in a library's collection (Irons, 2015).

Four institutions have attempted to record and track public performance rights (PPR) in their library's catalog records and thereby facilitate both library and patron understanding of when these licenses are needed:

- The Johns Hopkins University Sheridan Libraries has added notes stating, "Public performance rights granted," and suggests searching for these materials with a keyword search on that phrase.
- The University of Michigan Library notes in their catalog records, "U. Michigan public performance rights obtained."
- The Valparaiso University Library notes in their catalog records, "Purchased with public performance rights," with an accompanying hyperlink to the appropriate license terms.
- The University of Wisconsin Marshfield/Wood County Hamilton Roddis Memorial Library does not add a note about PPR, but when users view a catalog record for a DVD, they may find a link to license terms, if available.

Overall, the metadata about PPR in the catalog records at these academic libraries is either buried in a note field, or it is obscured by usage of a hyperlink to license terms, which a patron may not adequately or correctly be able to interpret. While these libraries are commended for their attention to this issue and their attempt to make PPR transparent to users, the Smathers Libraries innovated on the idea by making PPR easy to understand by incorporating rights statements related to PPR in catalog records in a way that is browsable, searchable, and filterable.

Project Impetus and Overview

A common query received by library personnel is: "Can I show this film in class or on-campus?" To answer that question, one must look to copyright law and agreements between the licensor and the licensee that govern the use of the content. For content not in the public domain, Section 110(1) of the Copyright Act Section provides an exception for showing films in class, and Sections 107 (Fair Use) and 110(2) (TEACH Act amendment) of the Copyright Act provide legal mechanisms for showing films to online classes, but when it is desired to show film content outside of

instructional or personal contexts or when streaming the full length of a film, a license is required. Thus, to meet user demand, the Smathers Libraries needed to document and communicate public performance rights (PPR) and streaming licenses.

This project has three main emphases: User and librarian education; documentation of rights, workflows, and technical processes; and improved discoverability of titles with PPR. To educate library users about copyright for film collections, the scholarly communications librarian created a website and brochure on the topic of "Showing Movies in Class and On Campus" (Fruin, 2016). Users with basic questions about PPR can be referred to these resources for accurate and current information, with contact information for library personnel who are also knowledgeable of the topic. She also provided in-house librarian and staff training on copyright, including common license/terms of use language used by vendors. Future training for the acquisitions and collection services department staff and selector librarians to better identify and understand PPR licensing options are currently being planned by the scholarly communications librarian and the acquisitions and collections services management team.

To better communicate PPR for each video purchase, the scholarly communications librarian created a four rights statements to be applied to each video purchase in order to better track licenses acquired. Each video was assigned one of the following four rights statements:

- This film is free of copyright and other restrictions and may be shown or digitized without additional permission or license.
- Public performance rights were purchased with this film. This film may be shown so long as no admission is charged and the film is shown on the University of Florida campus.
- Public performance rights were purchased with this film. This film may be shown publicly for educational or noncommercial (no admission fee charged) purposes.
- This film may be used for personal or classroom teaching only. No public performance or streaming of this film without license or permission. Please

consult with your library liaison for more information on the availability of licensing.

Acquisitions staff created reports of title, order record, invoice, and vendor data on DVD purchases from 2005–2016. The scholarly communications librarian applied codes to the report, associating rights statements to over 9,000 DVDs. This process frequently involved going to vendors' websites to determine which purchasing/licensing option had been selected for a title or set of titles from a given vendor. Licenses for streaming video collections, including patron-driven and evidence-based acquisitions plans, were also reviewed. Only one streaming vendor license expressly addressed PPR. Two other vendors, upon direct query, indicated that PPR rights were included with their content, but explicit terms were not present in the license. Acquisitions and collections services personnel are currently working with those vendors to update license documents to clearly include these rights. To increase discoverability of PPR and licenses, the project team integrated rights statements into catalog metadata to allow users to search for DVDs in the collection with PPR by innovating upon techniques that had been developed at the other institutions, as discussed previously.

Workflows between Acquisitions and Collections Services and the Cataloging and Discovery Services Departments were updated to ensure all future DVD and streaming video acquisitions are assigned PPR rights statements. Analysis of the data from the assignment of rights to acquisitions records not only provided insight into previously inaccessible purchasing habits but also reaffirmed the importance of tracking PPR licenses and informed future collections planning. The project team is also currently developing an internal emerging technology grant proposal to adapt an open source discovery layer geared toward improved video discovery for users and clearly stated and easily discoverable PPR information.

Acquisitions and Collections

PPR licenses are offered to academic libraries by several vendors and distributors. These rights are can be included in the purchase of a DVD/Blu-ray disc or through licensing streaming videos (either hosted by the vendor or a digital file the library must securely host). The Smathers Libraries licensed PPR rights with 128 unique library vendors, film

distributors, and independent filmmakers for DVD from July 2005 through June 2016. At least three major streaming video providers to academic libraries also include PPR in their license agreements. Analysis of the acquisitions data and licensing terms for the DVD collection proved quite interesting and provided insight into the total PPR spend, as well as the libraries' spending history on videos in general.

Between 2005 and 2016, 9,384 DVDs were purchased at a total cost of \$498,440. Only 1,181, or 12.5% of the total purchased, included PPR licensing; however, PPR DVDs cost the Libraries \$241,429, which was 48.4% of total DVD spend. The fact that such a large percentage of funds spent on DVDs went to such a small percentage of DVDs purchased was quite shocking to acquisitions staff and collections managers. The PPR collection spans across five branches of the Smathers Libraries, with the largest number of titles located in Library West, the Humanities and Social Sciences library. A significantly smaller number are housed in the Latin American and Caribbean Collection, the Architecture and Fine Arts Library, the Education Library, and the Health Science Center Library (in descending order). Over 17,000 streaming videos included in PDA or EBA plans have been so far been identified as "purchased with PPR" titles, with other providers' licenses being reviewed. The cost of the PDA/EBA plans for two fiscal years was \$40,000. The amount spent on PDA/EBA streaming videos, compared to DVD purchases, seems to indicate that use driven acquisitions plans for streaming video content may be the most cost-effective method of providing access to PPR videos. The Smathers Libraries are working with one vendor to ensure PPR terms are clearly reflected in the license and are pursuing signing an updated license with another streaming video vendor that would add several thousand more videos to the Libraries' PPR collection. Although spending on DVDs, including those with PPR, has decreased significantly at the Smathers Libraries, especially since 2012, thousands of dollars were spent on DVD PPR licenses in 2015 and 2016. As a percentage of total video spend, the libraries have spent increasingly more on streaming videos since 2010, with streaming video spend outpacing DVD spend starting in 2014.

Workflows

Documentation of PPR and streaming licenses required new workflows for the departments of

Acquisitions and Collections Services (Acq) and Cataloging and Discovery Services (CatDS). For all current and future requests of DVDs and streaming video, acquisitions personnel will determine PPR for the title using a vendor PPR matrix. The matrix was created using vendor PPR information from previously purchased titles, current license agreements, and PPR information retrieved from vendor websites. All current and previous vendors were assigned codes based on determined PPR statements. The codes, which are mapped to the rights statements discussed previously for display in the catalog and tracked in spreadsheets, are:

- No known copyright restrictions (public domain);
- Campus-wide viewing rights (no admission fee);
- Any location viewing rights (no admission fee); and
- Personal or classroom use only.

Upon purchase, notes are entered into the order record to identify those with included PPR. For DVDs, once a title is received, acquisitions personnel fills in necessary PPR information on a flag, which is included with the DVD and sent to CatDS personnel for cataloging. Based on the flag notes, necessary PPR information is added to the bibliographic record by CatDS personnel. For individual streaming video purchases (non-PDA/EBA), appropriate PPR information is relayed with the title and order information to CatDS for cataloging.

Metadata and Discovery

Having documented public performance rights for the Smathers Libraries' film collections, the next step was to make this information available to, and discoverable by, users. Two pieces of information were added to the library catalog as a batch-update for retrospective acquisitions, and going forward, as a part of the cataloging workflow discussed previously:

1. Public performance rights statements, which make it transparent to users what films they can show and how they can show them. These values are placed in the machine-readable cataloging (MARC) 540

field, the "Terms Governing Use and Reproduction Note."

2. A UFPPR code, placed in a MARC 599, "Local Note" field, for titles with public performance rights. This code allows custom searches to filter for materials with PPR. For example, one can create a canned search to browse all titles with PPR or perform advanced searches for titles with PPR using Boolean and logic.

The UFPPR code also enables the ability to create a custom search box targeting films with public performance rights. The custom search box allows users to search for titles with PPR without having to know about our coding system (O'Dell, 2016). On the front end, the user enters search terms, and on the back end, JavaScript concatenates their search terms with the UFPPR code, generates a search URL, and then reassigns the window location to search results in the library catalog. The script for the custom search box is lightweight and can be used as needed to aid in discovery and/or instruction, for instance, on the libraries' website and LibGuides.

```
<html>
<body>
<script>
function ufppr() {

ufppr=document.getElementById("ufppr").value;

begin="http://uf.catalog.fcla.edu/uf.jsp?ADV=S&t1=UFPPR&k1=k&op1=a&t2=";
    end="ufppr";
    result=begin.concat(ufppr);
    window.open(result);
}
</script>
<h1>Search for videos with public
performance rights</h1>
<p><input type="text" id="ufppr"> <button
onclick="javascript:ufppr()">Search</button></p>
</body>
</html>
```

The custom search box provides a streamlined *search* experience by allowing users to *browse* for videos requires more development. Enter the UDVD browser (GitHub, 2014): a custom discovery layer developed at the University of Miami Libraries to browse video collections in creative ways. UDVD is built using Project Blacklight. It integrates bibliographic metadata and circulation information—such as item availability and due dates—with extra metadata about films from the IMDB API and reviews and ratings from the Rotten Tomatoes API. UDVD offers different browsing modules by genre, language, date, country, and more.

To offer users a better browsing experience for film collections, the project team plans to implement the open-source UDVD browser (GitHub, 2014) at the University of Florida, re-branded as “ChomPix,” in honor of the school’s Gator mascot. The project team is in the process of applying for an internal libraries’ grant to add UDVD modules for browsing by rights and for viewing streaming video content

directly from within the interface. If successful, the code for this UDVD implementation will be available on GitHub for anyone to use and/or expand.

Conclusion

User demand and usage make videos an important format for academic libraries to deliver, but to make videos most usable, libraries need to document and deliver access to public performance and streaming rights. Through a collaboration between acquisitions, scholarly communications, and cataloging personnel, this project added user-friendly rights statements for video holdings to the library catalog. The workflows developed allow the library to track purchases of public performance and streaming licenses, while users can search, browse, and filter by rights, which helps them discover ways that they can use, show, and re-purpose video content. The next step will be to develop a customized discovery interface, designed especially for browsing video content and rights.

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