

June 2012

Little Red Herrings-Has the Internet Made Libraries Obsolete After All?

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Recommended Citation

Herring, Mark (2012) "Little Red Herrings-Has the Internet Made Libraries Obsolete After All?," *Against the Grain*: Vol. 24: Iss. 3, Article 35.

DOI: <https://doi.org/10.7771/2380-176X.6294>

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the music publishing company and recording company?

ANSWER: Under U.S. copyright law, the copyright in a work initially vests with the author, i.e., the composer. So, the author is the owner of the copyright and is entitled to the exclusive rights provided under the *Copyright Act*: reproduction, distribution, adaptation, performance, and display. If the work in question is a sound recording, the owner also has the right of public performance via digital transmission.

The composer usually transfers to the music publisher only the rights of reproduction and distribution for the composition. The publisher then collects royalties for sales of copies of the sheet music and pays a share of the royalties back to the composer. Generally, the composer retains all of the other rights such as public performance, so he continues to collect royalties for the public performance of his music.

A sound recording of the performance of a musical composition embodies at least two, and sometimes three, separate copyrights: the underlying musical composition, the recording of the performance of the music, and a copyright in the arrangement of the music for the sound recording. The performer, who may or may not be the composer, normally transfers the copyright in the performance of the music to the recording company that collects royalties for the sale of the recordings. The composer is compensated for the sale of recordings through the mechanical license, a compulsory license under the statute. The composer normally continues to own the copyright in the musical composition, however.

When music is played on radio or television, royalties are paid to the composer in the form of a blanket license with the performance royalty organizations such as the **Association of Composers, Authors and Publishers (ASCAP)**, **Broadcast Music Inc. (BMI)**, and **SESAC, Inc.** There are no performance rights in sound recordings except for digital transmission. So, traditionally, the recording company makes its money from the sale of records and not from performance. Both the record company and the performers share the royalties from digital transmission of sound recording (for example, from Webcasting).

QUESTION: Both sections 108 (c) and (e) require a library to make a reasonable effort to acquire an unused copy of a work at a “fair price.” But section 108(h) specifies a “reasonable price.” What is the difference?

ANSWER: There appears to be no functional difference. Section 108(h) was a 1998 amendment to the statute, and it uses “reasonable price.” Maybe it was sloppy legislative drafting. There is nothing in the legislative history to account for the difference, and there has been no litigation to provide guidance. 🐼

Little Red Herrings — Has the Internet Made Libraries Obsolete After All? Part 2

by **Mark Y. Herring** (Dean of Library Services, Dacus Library, Winthrop University) <herringm@winthrop.edu>

In part one I looked at the first five reasons of my 10 Reasons Why the Internet Is No Substitute for a Library” (<http://bit.ly/5oYnQb>) in an effort to see where I went wrong. Herewith, the next five in that list.

eBooks are the best example of a wrong prediction. I guessed in 2000 that this monumental change would not occur until about ten years from today. The advent of the iPad, however, catapulted eBooks a long, a very long, way. I have to admit that I was wrong about how long it would take us to get to a successful eBook reader. Add to the iPad the relative inexpensive cost of eBooks, and the floodgates are wide open. ebrary’s (<http://www.ebrary.com/corp/>) offering of tens of thousands of academic titles for literally spare change is also helping to widen the tsunami.

As for the maturation of eBook readers, I have read on multiple ones: **Kindles**, **Sonys**, the **Edge** (a now defunct reader), **iPads**, and smart phones, to name a few. The iPad proved the best experience so far. Some will argue that the comparison isn’t fair because the iPad is more a tablet than an e-reader. Semantics, really. Still, even the iPad isn’t perfect (<http://bit.ly/psZ3oz>). DRM (digital right management) issues still loom large (or not, <http://bit.ly/vE-ACC8>), as do issues of format. Copyright hasn’t been resolved, just ask Google (<http://bit.ly/9FyDn6>). Further, I am troubled about how this translates into scholarly reading, various ebrary solutions notwithstanding. It cannot be done very well currently, though I believe it will be done well, eventually. Today, however, a medium for scholarly eBooks that provides access and service at the highest of levels remains on the “to do” list.

Furthermore, so far the frequency of eBook usage in academic libraries is at best very limited. I think this will likely change as more and more high school students, coming as they already are from ebrary libraries (or facsimiles), push out remaining paper acolytes. What remains an imbroglio is the attitude of most students to e texts. A majority say they want eBooks but this has yet to translate into high usage of same. Then there is the problem of what is going on in that electronic environment. Wired generations are easily distracted (<http://nyti.ms/bGoKmx>). Digital natives are also research challenged (<http://huff.to/c9IPTn>). This is, of course, an argument that could be made about any generation of students, but it does appear to have worsened of late. Finally, there is the question of what the Internet experience is doing to our brains (<http://bbc.in/n1u68r>). We know it is doing something, but the jury is out whether this is good, bad, or indifferent.

As for the paperless library — well, it hasn’t made an appearance yet. Most now think this is a mission impossible. That is not to say that we won’t see a dramatic curtailment in traditional print books in the future. I thought that a decade ago and think it is true today. But the dramatic change in which libraries are being built without books at all, or with only a handful, hasn’t shown up, at least not to the degree promised. The **University of Texas** at San Antonio’s Applied Engineering and Technology Library (<http://bit.ly/IUOoUY>) claims (<http://bit.ly/bhFfpl>) to be a bookless library. I have no reason to believe otherwise. Some, however, believe the idea is a myth in the making (<http://bit.ly/ucN2Tu>). Frankly, if we cannot figure out a way to reduce the carbon footprint of libraries, the profession will be in trouble. The will behind the erection of large, grand libraries has gone, unless we can talk **Bill** and **Melinda Gates**, **Brin** and **Page** into using their foundations to become the modern day **Andrew Carnegie** for libraries.



Although I didn’t call it this, the creation of a national digital library, my eighth point, is still waiting creation. I correctly argued then it would prove too costly. It still is. Perhaps the best argument for it is **Robert Danton’s** (<http://bit.ly/chcoRE>), but even he recognizes that it will take the concerted effort of all of us just to get close. If we spend the dollars needed, what will be left for anything else? Frankly, I still fret over the whole idea of re-mastering digital images, though I see less and less of this in the professional literature. Digitization is not a one-and-done process. If this is true, then whatever the cost of such a facility just increased significantly.

The Internet remains the proverbial mile wide, but I will concede that it is now a little more than an inch deep — let’s say at least

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five inches deep. Persistent uniform resource locators (purls, <http://bit.ly/dr8znd>) are not as prevalent as I would like. Materials that I bookmarked a year ago are now in that area of cyberworld known as 404-Error-File-Not Found, wherever that is. And while the Web has deepened, we are still a decade away from the resolution of the problem of it as ankle-deep history. I am hopeful about the evolution of the Internet2 (<http://bit.ly/aogLlk>) but resigned to the realization that its evolution will take place in years, not months, and perhaps not during my lifetime. The establishment of Internet2 or its facsimile would go a long way to make the 'net a more scholarly "go to" resource.

Finally, even with iPads, Kindle Fires, and the sharing of eBooks via Amazon and other places, I remain hardened on the principle that books are not only ubiquitous but also

exceedingly portable. Furthermore, they will endure for the foreseeable future. I have, over the last three years, read on various devices, as mentioned above. On occasions, my eBook reader batteries have failed, both through my own forgetfulness and through no fault of my own. Technology hiccups have caused books not to load and wiped out certain books. When I replaced a reader my materials had to be reloaded, re-synced, or otherwise found again. I have been annoyed by looking for one bestseller only to discover I needed to get it via another provider, the one I did not have with me at the time. Apps have, of course, greatly improved accessibility, but both the apps and the accessibility remain unnecessary hassles. Even the "new" Kindle Fire (<http://tcrn.ch/u2mqmL>) has its own screen-size problems and battery issues. All of these problems are obviously solvable. For now, however, they remain annoyingly troublesome.

Part 3 will close with some conclusions about libraries, the Internet, and the growing obsolescence of the one with the maturation of the other. 🐾



Rumors from page 22

Keep forgetting to mention this! My bad! The on-top-of-it **Jonathan Harwell** has left **Georgia Southern University** as Coordinator of Content Management as of April 3 and began at **Rollins College** as Head of Collections & Systems on May 1! Congratulations, **Jonathan**. Have y'all noticed that **Jonathan** is writing a lot of the Friday Hot Topics in the online **ATG NewsChannel**? www.against-the-grain.com/

Greater minds than mine are weighing in on the recent **Georgia State University** ruling regarding e-reserves and copyright. The ruling is 350 pages long and is largely favorable to **GSU**. **Bryan Carson** promises that he will add his perspective to this soon for **ATG**! What I say ever so quietly (being married to a lawyer) is that judges and lawyers seem to be making sure that there will be job security for the legal profession. This may be appealed as well. <http://blogs.library.duke.edu/scholcomm/2012/05/12/the-gsu-decision-not-an-easy-road-for-anyone/http://bit.ly/KCVLij>
<http://www.educause.edu/policy/campus/resources/gastate>
<http://chronicle.com/article/Long-Awaited-Ruling-in/131859/>

And this just in from **Kevin Smith, J.D.** <kevin.l.smith@duke.edu>, **Scholarly Communications @ Duke** has posted a new item, "Publishers file response to GSU ruling." On May 31 the three plaintiff publishers in the copyright infringement case against **Georgia State** filed their proposed injunction, as the Judge required that they do, and a memorandum of law in support of that proposal. So now we have a chance to examine their first legal response (as opposed to press releases) to the ruling. You may view the latest post at <http://blogs.library.duke.edu/scholcomm/2012/06/01/publishers-file-response-to-gsu-ruling/>.

I am going to have to sign off because I am running out of room, but not before I tell y'all that our wonderful friend, **Carole R. Bell**, head of Acquisitions at **Temple University** retired April 30th after a 35-year career in academic libraries (Penn, Brown, Northwestern, Univ. of Maryland, and of course Temple). **Carole** says she is going to miss all of us (are you sure, **Carole**?) and that she would love to stay in touch! Her email remains the same <crbell@temple.edu>.

Bye for now! And Happy Spring! Yr. Ed. 🐾