Against the Grain

Volume 27 | Issue 1

2015

Questions and Answers: Copyright Column

Laura N. Gassaway

*University of North Carolina- Chapel Hill School of Law, laura_gasaway@unc.edu*

Follow this and additional works at: [https://docs.lib.purdue.edu/atg](https://docs.lib.purdue.edu/atg)

Part of the [Library and Information Science Commons](https://docs.lib.purdue.edu/atg)

Recommended Citation

Gassaway, Laura N. (2015) "Questions and Answers: Copyright Column," Against the Grain: Vol. 27: Iss. 1, Article 28.

DOI: [https://doi.org/10.7771/2380-176X.7010](https://doi.org/10.7771/2380-176X.7010)

This document has been made available through Purdue e-Pubs, a service of the Purdue University Libraries. Please contact epubs@purdue.edu for additional information.
Questions & Answers — Copyright Column

Column Editor: Laura N. Gasaway (Associate Dean for Academic Affairs, University of North Carolina-Chapel Hill School of Law, Chapel Hill, NC 27599; Phone: 919-962-2295; Fax: 919-962-1193) <laura_gasaway@unc.edu> www.unc.edu/~uncleg/gasaway.htm

QUESTION: A college teacher asks if it is copyright infringement to reproduce music from YouTube for use in class.

ANSWER: The difficulty with YouTube is that individuals post performances of copyrighted music all the time. If that person is the composer, there is no problem with the posting, but often that person is performing someone else’s music or has copied a copyrighted recording of that music and put it on YouTube without permission. While these are often removed from YouTube at the request of the copyright holder, there may be a time gap before the removal occurs.

Playing the music from YouTube in class, assuming it is posted there with permission, is allowable if the performance meets the requirements of section 110(2). There is no reason to reproduce the music, however. Instead, using a link and playing it directly from YouTube is preferable since there is no reproduction. Section 110(2), known as the TEACH Act, permits the performance of non-dramatic music in a non-profit educational institution as a part of instruction, so the performance is permitted. Reproducing the music is not, however.

QUESTION: Have there been any developments in the Georgia State litigation?

ANSWER: Yes. The last column discussed the 11th Circuit decision that vacated and remanded the decision of the district court. See Cambridge University Press v. Patton, 769 F.3d 1232 (11th Cir. 2014). Both sides then requested a rehearing en banc from the 11th Circuit which was denied without opinion on January 2, 2015. The next stage will be either an appeal to the U.S. Supreme Court, dropping the case or a settlement agreement. To date, there is no indication which will occur.

QUESTION: A journal publisher asks about transfer of copyright from the author to the journal when the article contains a “tool” that is much sought after for use in medicine for the treatment of patients. The copyright transfer for the article was an assignment of all of the rights to the publisher. The question is whether the publisher has rights to any updates of the “tool.”

ANSWER: Because the author transferred the complete copyright to the publisher, the publisher owns the right to prepare derivative works such as new editions or updates. The publisher owns the rights to any update published by the author. Practically speaking, however, the publisher itself is unlikely to be able to update the tool, but it could engage someone other than the original author to do so.

Another issue for the publisher is whether it wants to retain good relations with the author. If so, then alerting the author to the fact that the publisher owns the rights should be done carefully along with an offer to publish the updated tool. It may be economically advantageous to have the author update the tool and then share in any proceeds.

QUESTION: A hospital library has a Copyright Clearance Center (CCC) license, and the librarian asks about republishing a tool covered by the license.

ANSWER: Unfortunately, it is not. The CCC license does permit re-posting and republishing of material for in-house use, such as posting on an internal Website. The publication of an article in another journal is not covered by the license, but the CCC may be able to grant permission for the doctor to use the graph as desired. It is likely, however, that there will be a royalty charge for the use.

QUESTION: A corporate librarian asks a general question about blogs and company Websites. If a company has a blog page on its Website, does the company own the copyright in guest bloggers’ posts, or is an agreement required? In other words, the company owns the content on its site, but do guest blogs become the property of the company Website, or does the guest blogger hold all rights to what they wrote?

ANSWER: The company owns the copyright in any blog postings on the company Website that are produced by its employees in the course of their employment. But this question asks about a guest blogger who is not an employee. The author of that blog post owns the copyright in his or her original posting.

If the company wants to own the copyright in the blog content created by the guest blogger, then a written transfer of copyright from the blogger to the company is required. Many guest bloggers probably would not agree to this, but the company still may want to ask. If the blogger refuses, the company then has the choice to permit the blogger to post with the blogger owning the copyright or refrain from posting the blog.

QUESTION: A college faculty member asks about posting publisher-produced PowerPoint slides for students on its course management system. Is there a difference in posting slides from the textbook adopted for the class and in uploading ones from other textbooks? Access would be limited to members of the class.

ANSWER: There is a difference in posting slides accompanying an assigned textbook and in posting ones from a non-adopted text. The publisher of textbooks produces the slides for the use of faculty members who adopt the text for their classes, so there is problem in posting those slides for students via the course management system. It may be permissible to use ones from non-adopted texts also, but the faculty member should carefully review any license agreement that accompanies that text to determine if posting is permissible when the textbook has not been adopted. The publisher could restrict the posting of the slides to textbook adopters. Faculty members can always contact the publisher and seek permission to post the slides, however.

Posting a small number of the slides from those provided by a publisher of a non-adopted textbook may be fair use where posting the entire slide set likely is too much.