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## Why Every Librarian Should Know About Copyright: Creating Copyright Training Opportunities for Librarians at Your Institution

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# Why Every Librarian Should Know About Copyright: Creating Copyright Training Opportunities for Librarians at Your Institution

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## Introduction

Librarians encounter copyright-related queries and scenarios every single day and, increasingly, copyright and legal scenarios present themselves to librarians and libraries in new and complex ways. From questions of fair use to complicated licensing contracts, librarians are being asked to interpret and navigate copyright-related scenarios that require knowledge and expertise. Because copyright legal interpretations often are not straightforward, many library and information professionals may feel

uncomfortable or unqualified to traverse nuanced layers of copyright scenarios. With this in mind, training and education opportunities should be key components to assisting librarians in confidently addressing complex legal issues at the intersection of copyright and information literacy at their respective institutions.

This chapter addresses the importance of copyright training and education and aims to provide case studies and scenarios that demonstrate effective opportunities for engaging librarians in various library departments in issues of copyright. In particular, it will explore the University of Central Florida's (UCF) unique intersection between subject librarians and scholarly communication, as well as the Office of Scholarly Communication's efforts to provide internal copyright training to librarians across the institution.

## Why is Copyright Training Important?

Copyright is an implicit part of the roles and responsibilities of both librarians and library staff, and they encounter such issues on a daily and frequent basis. Whether it is ascertaining copyright permission for materials borrowed or loaned through interlibrary loan or purchasing public performance rights when a film is acquired, copyright presents itself in various ways throughout the library's distinct units, departments, and offices. In the digital landscape in which libraries operate, it is realistic to expect that all librarians encounter and negotiate copyright in some way on a regular basis.

Because this is an area so intrinsically tied to various aspects of librarianship, having a basic knowledge and understanding of copyright is particularly important. This is certainly not to say that all librarians must be experts on the topic of copyright, but rather to suggest that librarians should feel they have a general understanding of the concepts and challenges associated with copyright law. In general, presenting librarians with training opportunities allows them to broaden their knowledge, depth, understanding, and comfort level on such topics.

Understanding the lack of comfort that many librarians express with copyright law has been the subject of multiple broad studies in which sur-

veys have been administered to librarians and library staff internationally. Studies have been both qualitative and quantitative in nature. Most recently, Morrison and Secker conducted a study using phenomenography, a qualitative research method that looks for variations of experiences, to explore the professional experiences of academic librarians and library staff in the UK with copyright.<sup>1</sup> Of particular interest in the context of this chapter is the study conducted by Charbonneau and Priehs which surveyed academic librarians about the need for copyright training and awareness locally within institutions.<sup>2</sup> In addition, a study conducted by Cross and Edwards explored the curriculum and faculty of ALA granting degree programs to determine if there were deficiencies at this core level.<sup>3</sup> Each of these particular studies, as well as others on the subject, has indicated that there are several core factors that affect and preempt the need for robust copyright and intellectual property training.

Perhaps the most notable factors that precipitate the need for copyright training for librarians include the following: (1) lack of copyright curriculum in degree-granting programs, (2) lack of formal and informal training opportunities locally at library institutions, and (3) changes in copyright law and legal interpretations. As noted by the Cross and Edwards study, a large percentage of ALA degree-granting institutions neither require copyright or legal training as a part of a student's degree requirements nor offer extensive training with regard to copyright and intellectual property.<sup>4</sup>

Because most library and information science degree-granting programs do not incorporate copyright training in a significant way, it is a likely assumption that many librarians enter into the profession without a solid foundation of copyright knowledge. With this in mind, libraries should aim to provide some formal or informal copyright training for the librarians.

However, as the studies we have discussed illustrate, copyright training is often lacking at many institutions. Compacted with ever-changing copyright law and legal interpretations, it is little wonder that many librarians feel uncomfortable and unqualified to address copyright-related scenarios. Additionally, it is important to note that law is constantly evolving and even librarians with training can use updates as case-law is further developed.

## Defining Copyright Training

A library can and should provide the following sorts of training to librarians: general education, assistance in addressing specific copyright-related situations, and practice using common copyright scenarios. However, like copyright itself, addressing training and education opportunities may not be as straightforward as it may seem at first glance. Questions may arise surrounding training best practices, areas of responsibility, job descriptions, and legal implications and responsibilities. Training for librarians may come in many forms, and some training opportunities may be best served by using external opportunities, like Copyright X through Harvard Law School,<sup>5</sup> the Copyright for Educators & Librarians MOOC through Coursera,<sup>6</sup> the Copyright Certificate Program through Copyrightlaws.com,<sup>7</sup> or workshops offered through a local consortium. In many cases, libraries choose to create internal training opportunities that rely not only on internal resources but also on externally developed materials to best serve their librarians. Programs, such as Copyright First Responders created by Harvard Library's Office for Scholarly Communication,<sup>8</sup> can be useful models when creating internal training opportunities locally at your institution. It is important to note that no one particular type of model is the most effective, but rather, each library should focus on providing opportunities tailored to its institution and librarian responsibilities.

In the context of this chapter, it is important to define and identify key aspects and attributes that make up copyright training—both external and internal to the library. All of these allow the library, librarians, and/or library units conducting such training the ability to identify and communicate with librarians the goals, which will be explored more fully in the next section, and expectations surrounding training opportunities. Goals and expectations for training sessions are critical to define both for successful implementation and completion of training.

The most important factor to consider when crafting a copyright training module is the focus of the training or its scope. Copyright is both broad and complex; interpreting it can produce lengthy and nuanced responses and explanations. Defining training sessions or workshops by a particular aspect of copyright or focusing on a specific and narrow topic allows both those conducting the training and those attending a chance to fully

explore and address the topic at hand. For instance, creating a “What is Copyright?: Learning the Basics,” session might explore the core fundamentals of copyright, while another session might focus on specific exceptions to copyright protection, such as the section 108 exceptions for preservation, archives, and interlibrary loan.<sup>9</sup> Providing session participants with an expectation regarding the scope of a particular copyright learning session is an important method of reinforcing concepts. Additionally, using instructional scaffolding as a pedagogical tool to provide copyright training in this manner provides support and reinforcement in a meaningful way. Scaffolding, in particular, provides an environment where new skills can be taught and learned in contextualized, real-world environments.<sup>10</sup> For instance, one cannot fully understand the limitations on copyright or copyright exceptions without first understanding the core rights that copyright provides to authors and exploring these concepts through scenarios faced daily by librarians is an effective way to provide training using scaffolding.

Another aspect of copyright training is resource support. Providing librarians with resources they can use both during and after their training helps ensure that staff feel comfortable and confident that they have the tools needed to provide copyright support and/or make copyright interpretations in their areas of responsibility. This can be as simple as a website or research guide with copyright resource links, policies, and other important information; or it could be something more complex, like a wiki or internal training manual with frequently asked questions and sample scenarios. The goal of any copyright training for librarians should be to provide as much support as possible throughout the training process while providing resources post-training to facilitate copyright queries and scenarios faced by librarians on a daily basis in their respective areas.

## Goals of Copyright Training

As copyright training is both developed and defined locally at an institution, libraries should be aware of the importance and need to set goals for such training opportunities. Goals are important not only for the attendees but also the organizers who may have benchmarks defined for measuring the success of the training, as well as providing deliverables

for attendees. For instance, the following goals should be considered when implementing copyright training and apply to training conducted internally at one's library or externally through another library or organization.

1. **Gaining an understanding of the basics of copyright law (and the spirit of the law):** This may be the most critical goal for any copyright training. Not only should the attendees gain an understanding of the basics of copyright law, or a particular aspect of copyright, they should also understand what the spirit of the law may imply. Copyright law and its interpretation are complex. Helping librarians understand this particular nuance is deeply important in addition to understanding the fundamentals.
2. **Understanding exceptions:** Copyright law provides exceptions. For instance, the face-to-face teaching exemption aids in serving the educational needs of faculty and students. Understanding these exceptions helps librarians assist faculty navigating copyright in both face-to-face and online teaching environments and understanding the ways faculty can use copyrighted materials in these different environments and learning platforms.
3. **Understanding the right to fair use:** Assisting librarians with understanding what fair use is, how it can be applied, how to navigate the four fair use factors, and best practices for evaluating copyright risk is particularly critical in academic libraries. This is also important in helping librarians and faculty better understand how to use copyrighted material in limited fashions without fear of litigation. In particular, the limitation on liability for librarians employing good faith fair use determinations provided in Section 504(c)(2) of the Copyright Act is an important aspect of the law to acquaint librarians with.<sup>11</sup>
4. **Learning to identify “bad” copyright information:** Copyright information and interpretations are widely available both online and in the literature on the topic, and this often leads to “bad” copyright information—or, rather, misinformation. This misinformation may confuse matters for those already uncomfortable with the topic. Providing copyright resource support, as previously mentioned, can help mitigate using such information, as well as assist librarians with the skills needed to identify appropriate

resources with excellent information as opposed to those that provide misinformation.

5. **Instilling confidence:** Another important goal is to instill confidence in librarians attending training sessions. Copyright can be overwhelming to even the most skilled legal experts. Helping assuage fears and perceptions leads to confident librarians who feel comfortable navigating copyright and referring to experts when they feel less confident addressing a query or scenario.
6. **Creating copyright advocates:** Often, we might feel that copyright is a burden or prompts legally precarious situations; however, helping librarians understand that copyright is a right and that exceptions and aspects of copyright law, such as fair use, exist to use copyrighted content in limited fashions under certain conditions can and should be utilized.

By providing specific goals and expectations during copyright training, librarians can engage in this type of training with the knowledge that they will have both support during and after the training process, as well as benchmarks to help throughout the process.

## General Copyright Training Opportunities

With an understanding of what copyright training is, why it is important, and the types of goals or benchmarks that can be achieved during and after training, those conducting such training can begin to frame specific training opportunities. Perhaps the first decision, as noted previously, is to determine if the library will provide internal, external, or a combination of both training opportunities with respect to copyright and intellectual property. This decision should be based on institutional needs and consider financial needs as well. For libraries just beginning to explore copyright training, it may be best to approach this using either external opportunities or rely on a combination of both internal and external training. Those institutions with experts in copyright and copyright law may want to consider creating their own internal training opportunities, such as presentations, or as will be discussed in the case study, discussions or brown bag lunch opportunities.

## Case Study: The University of Central Florida

As we explore the importance of copyright training, as well as potential training opportunities that libraries can implement at their respective institutions, it is helpful to examine a successful example of copyright training development and execution. The University of Central Florida (UCF) has created a unique model incorporating scholarly communication responsibilities into a subject librarians' annual assignment and position description. This emphasis on scholarly communication has led to various opportunities and strategies for successful training in copyright topics and issues. One such area has included a brown bag lunch series developed from the Office of Scholarly Communication to answer common questions received from library staff and faculty and to provide additional training on specific topics, such as fair use.

### UCF Subject Librarians and Scholarly Communication Outreach

In 2013, the UCF Libraries' Research and Information Services (RIS) Department initiated a new subject librarian program to increase positive impacts on faculty research, teaching, and student learning. The new program strongly encouraged each subject librarian to engage in scholarly communication outreach to the faculty and students in his/her assigned academic departments and programs.

Subject librarians use both face-to-face opportunities (new faculty orientations, visits with individual researchers, library instruction sessions, workshops, and presentations at academic department and university meetings), as well as online interactions (web-based research guides, tutorials, videos, and electronic newsletters) to engage in an evolving conversation with faculty and students about scholarly communication topics such as copyright, authors' rights, and open access.

UCF subject librarians have 35 to 45 percent of their formal annual assignment and position description designated for "outreach," which includes a heavy emphasis on subject librarians communicating schol-

arly communication information to their assigned faculty and students. The subject librarians routinely report on their scholarly communication outreach progress in both their monthly and annual self-evaluations, and each year the head of research and information services, after reviewing their progress, writes annual evaluations that serve as a basis for promotion, merit salary increases, and awards.

## Subject Librarian Scholarly Communication Training

To ensure that the subject librarians are well-versed in scholarly communication issues, the RIS Department works closely with UCF Libraries' Office of Scholarly Communication and IT/Digital Initiatives (IT/DI) units to provide highly focused scholarly communication training throughout the year. Scholarly communication training is a high priority in both RIS and library faculty monthly meetings, RIS retreats, graduate student workshops, and frequent workshops provided by the scholarly communication librarian. These trainings usually take place either in the main library or in the nearby Graduate Student Center, which makes it very convenient for the subject librarians to participate.

The scholarly communication librarian further supports UCF's subject librarians by leading professional development opportunities and being "on call" when questions arise. The position also works directly with faculty and instructional designers from the Center for Distributed Learning by assisting them with copyright questions related to course materials, publishing, author agreements, and compliance with research funding mandates. Frequently, a subject librarian will invite the scholarly communication librarian to accompany him/her on a visit to an academic department office to discuss a faculty member's copyright questions together. Other times, the subject librarian serves as a liaison and arranges an appointment for the faculty member to meet with the scholarly communication librarian at the library.

In addition to copyright training provided at meetings and workshops, subject librarians frequently utilize copyright information provided via the libraries' scholarly communication web page.<sup>12</sup> The web page provides

detailed sections on author rights, sharing your copyrighted work, using other's work, creative commons, and fair use, with a prominent link to UCF's Office of General Counsel.

## Examples of Copyright Questions that Subject Librarians Are Asked

Subject librarians have been asked to promote UCF Libraries' institutional repository by encouraging their assigned academic faculty to consider placing their scholarship there. As a result, academic faculty sometimes reach out to subject librarians with challenging copyright and author rights questions regarding particular materials that they are considering adding to the institutional repository. When these specific questions arise, the subject librarians frequently arrange meetings to bring together the faculty member, the scholarly communication librarian, and the digital initiatives librarian for detailed discussions about the particular scenario.

For example, when faculty members who have a long history of publication and would like to deposit their works into UCF Libraries' institutional repository, their query typically leads to meetings involving the scholarly communication librarian, the digital initiatives librarian, the subject librarian, and the faculty member. Meetings include discussions about the various venues in which the faculty members have published throughout their teaching tenure and whether or not they have retained the copyright of the published works. In most cases, faculty have not retained the copyright of their scholarship due to a contractual agreement signed with a publisher in order to have their research published. In this case, the scholarly communication librarian, subject librarian, and digital initiatives librarian work with faculty members to determine if a version of their research (i.e., pre-print, post-print, and/or publisher's PDF) may be added to the institutional repository using resources such as author agreements, publisher websites, and SHERPA/RoMEO.

In addition, UCF faculty are often interested in uploading various types of media and formats to the institutional repository. In this case, as well, multi-person meetings take place to discuss author rights, copyright, formatting, and technical issues involving particular situations.

Institutional repository-related questions are not the only areas in which copyright is a concern. Faculty members often contact their subject librarians with copyright questions related to fair use. In particular, educational multimedia is one of the most common areas copyright questions arise for faculty. Some of these questions have to do with the following topics:

- showing videos in the classroom
- providing access to library-licensed streaming videos via online courseware
- providing access to certain journal articles through their online syllabus or courseware
- including certain images taken from the internet in their online courseware
- asking if the library will digitize unofficial copies of videos that they have downloaded from YouTube or Vimeo so they can use these videos in their online courseware
- asking if the library will digitize older VHS formats

Subject librarians are comfortable pointing faculty to general information about fair use contained in US statutes (such as 17 U.S.C. § 107-1-Limitations on exclusive rights: fair use), as well as a FAQ created by the UCF Office of General Counsel to assist faculty in regard to common questions related to copyright and fair use for educational media in the classroom. However, most subject librarians believe that it is best to direct specific legal questions to the scholarly communication librarian or the Office of General Counsel. Frequently, a subject librarian will invite the scholarly communication librarian to accompany him/her on a visit to an academic department office to discuss a faculty member's particular copyright or fair use questions together or to arrange an appointment for the faculty member to meet with the scholarly communication librarian at the library.

## Copyright, Fair Use, and Digital Scanning at UCF Libraries

Perhaps one of the most challenging copyright scenarios that subject librarians face on a daily basis is the self-serve library scanners, which provide users with digital scans that they can email or save on a USB flash

drive. Students, faculty, staff, and community patrons use these scanners on a frequent basis, and the most often used self-serve library scanners are located only ten feet away from the very busy research services desk.

Under the best of circumstances, subject librarians serving at the desk are asked on-the-fly questions from patrons about what constitutes fair use and how much they may copy or scan from a particular resource to stay within the law. Situations like this give subject librarians an opportunity to educate users on fair use; however, in most cases, users are under the assumption that they can scan anything, in any amount, and do not consider the implications of copyright.

Given this, under the worst of circumstances, subject librarians observe patrons scanning or photocopying whole works without seeming to pay attention to posted copyright warnings, even though UCF machines have relevant text indicating that users must adhere to copyright laws. The text from Title 17, USC-Copyright, Chapter 1: Subject matter and scope of copyright<sup>13</sup> and Section 107: Limitations on Exclusive Rights: Fair Use<sup>14</sup> is not only posted on the scanners, but the users must click through the digital script of these postings and accept the provisions before proceeding with their scanning.

These types of scenarios, about the rights and responsibilities associated with copyright and the implications of observing potential copyright violations, have prompted several discussions between subject librarians and the scholarly communication librarian at reference meetings and at workshops about this issue. Section 108, Limitations on Exclusive Rights: Reproduction by Libraries and Archives,<sup>15</sup> in particular, notes that libraries and archives or their employees are not liable for any unsupervised use of scanning, photocopying, or other uses on reproducing equipment in the facility provided that the appropriate notices mentioned above are present on the equipment.

## Scholarly Communication Brown Bag Presentations

All subject librarians at the University of Central Florida have a component of scholarly communication within their assigned duties. Other

librarians and staff in other departments or units who do not normally have these duties will encounter copyright scenarios as well. These individuals may not know how to deal with copyright situations without notice or time to prepare. The scholarly communication librarian may not be available at the time of need, or a nearby subject librarian may not be comfortable with the specific needs of the situation. What is the role, then, of the scholarly communication librarian to prepare the faculty and staff of the library to know how to handle these situations? General advice to pass along every situation to the scholarly communication librarian may not be appropriate. It may be difficult to tell, in fact, if some situations are suitable for the Office of Scholarly Communication. Although dealing with situations on a case-by-case basis may be the most thorough and effective answer to helping coworkers, the Office of Scholarly Communication opted to engage in discussions to help support interest in the topic as well. Fear of copyright is a common issue, so the scholarly communication librarian and scholarly communication adjunct librarian devised a plan to increase interest in, awareness of, and motivation to learn about and engage with copyright.

The plan started simply by crafting “Scholarly Communication Brown Bag Presentations” to give to the faculty and staff of the library. Subjects included

- using SHERPA/RoMEO to understand journal copyright policies;
- personal responsibilities with uploading copyrighted material to professional profiles;
- what is scholarly communication?;
- author rights; and
- copyright in general.

All PowerPoint files are available online through UCF’s institutional repository, STARS.<sup>16</sup>

The topics were presented to cultivate discussion among coworkers and showcase tools or skills they could use themselves. This presentation format, however, did not produce discussion, except perhaps from one or two individuals already comfortable with the subject. The Office of Scholarly Communication changed the plan to include both faculty and staff in the discussion and to encourage an environment where questions of any experience level could be asked without qualms or hesitation.

## Stay Savvy with Scholarly Communication Sessions

To make the change from formal presentation format to an informal discussion group, a “rebranding” was strategized. Instead of titling the sessions “Brown Bag Presentations,” the title was transitioned to “Stay Savvy with Scholarly Communication” and advertised as sessions. The email used more welcoming tones to invite any faculty or staff members to attend and bring their lunches. More changes were introduced beyond a new name and invitation style. Conversation took the place of projected slides. Alternative tools to help guide the discussion included distributing articles to read one week prior to attending the session and then supplying handouts with small bulleted lists of article highlights.

Four sessions were tested in this way. Short (half-page) handouts were created for two topics per session, with each topic based on an article released within the past several months found by the scholarly communication adjunct librarian. The articles usually did not originate from peer-reviewed academic journals but rather from well-known blogs, higher education magazines, and other related sources. Opting for “lighter” reading helped ensure attendees had time to read the material before attending the session or at least that a quick recap would be sufficient to bring everyone up to speed. Topics included:

- Can cake count as intellectual property?
- How to improve technology transfer in regard to patent and copyright understandings.
- Does piracy of scholarly articles fill a growing need?
- How does copyright law impact the sharing nature of open educational resources?

After several “Stay Savvy with Scholarly Communication” sessions led by the scholarly communication librarian and the scholarly communication adjunct librarian, guest discussion leaders from various campus units were invited. The first guest discussion leader was from the Office of Technology Transfer, and the second was the Center for Distributed Learning, both utilizing handouts. This new aspect with guest leadership offered different learning dynamics and insights from experts in the topics they led.

After positive feedback, the scholarly communication adjunct librarian sent more invitations to guests to lead discussions. Now the topics expanded into more content-heavy subjects. Instead of strictly following the discussion-only layout of the session, the guest discussion leaders were invited to give short presentations for half of the session and then foster discussion, with help from the scholarly communication librarian and adjunct.

This last recipe for copyright outreach seemed to suit the taste of the UCF Libraries faculty and staff. With outreach, especially sessions including aspects of professional development, there will always be a balancing act of what is too boring?, too in-depth?, not interesting enough?, not comprehensive enough?, and so on. After trying (1) presentations from the scholarly communication librarian and adjunct, (2) discussions led by the scholarly communication librarian and adjunct, (3) discussions led by other experts, and (4) invited speakers plus discussion portions, the fourth and final “recipe” seemed to work best.

Was it the new dynamic for the fourth type of session or was it the comfort of regular attendees that inspired discussion, interest, and—we hope—easier applicability to copyright situations encountered in the library?

The scholarly communication adjunct conducted a small survey from some regular attendees to help see preferences and areas to improve the sessions. Attendees included full-time faculty librarians, adjunct librarians, and library staff. Survey results indicated a range of reasons for joining the sessions. Attendees were encouraged to visit to learn more about the Office of Scholarly Communication and its services, which in turn helped the attendees connect library users to those services. Colleagues more familiar with the department enjoyed how the sessions helped them stay current on topics relevant to their work projects, learn about tools, and hear from presenters they knew to be proficient in various areas of expertise. For practicality, the attendees also valued receiving reminder email and calendar invitations. Multiple attendees lauded the informal setting which allowed for open discussion, learning about colleagues’ current projects, and having fun in a relaxed environment.

Attendees also helped target aspects of the sessions to improve. The main issue, however, was scheduling. Individuals often voiced their apologies

for missing certain sessions due to conflicting commitments. Ways to ameliorate scheduling issues could include recording the sessions or offering the sessions at multiple times. Other requests were related to having more topics, such as how various issues discussed impact faculty from other disciplines.

With a strong group of interested colleagues and seemingly endless possibilities for topics, this format for copyright and related training has proved successful at the University of Central Florida.

## Conclusion

Copyright is an implicit part of a library and the roles librarians play at their respective institutions. Yet, copyright training opportunities have not always played a large role in providing support and infrastructure to help librarians navigate the ever-changing landscape of intellectual property. As we explore in this chapter, copyright should not be an area in which only a select few librarian experts should be engaged, but rather should be an inherent part of every librarian's role in a meaningful way. Creating copyright training opportunities at your institution provides not only an infrastructure but also a resource for librarians to feel supported and engaged in understanding and navigating intellectual property topics and issues.

The University of Central Florida's unique cross-section of scholarly communication and research and information services illustrates how incorporating scholarly communication at the core level of librarian responsibility can impact engagement and interest in topics, such as copyright. In addition, the Office of Scholarly Communication's workshop and training series has proved successful in providing education and training opportunities for copyright and other related concepts.

Though copyright law and its interpretations will likely never be an uncomplicated topic, providing copyright training opportunities for librarians plays an important and critical role in creating confident, knowledgeable copyright advocates at your institution.

## Endnotes

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