Copyright Article Review of Copyright Law in Distance Education

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While ignorance does not allow escape from prosecution, copyright law can be challenging to adhere to because of amendments to copyright law, due to constant changes in technology, and due to constant changes in the law. A definition of intellectual property is the “property that results from original creative thought, as patents, copyright material, and trademarks” (Dictionary.com, n.d.). Knowing what does and does not violate copyright law can help distance institutions avoid lawsuits.

According to Roper (2012), educators teaching online have many challenges in preparing and planning lessons that are “disproportionate in comparison to the time spent preparing traditional face-to-face courses” (p. 16). Part of that challenge exists due to necessary adherence to copyright law in distributing course materials. Copyright Laws have existed since the 18th century once Congress decided authors’ works needed to be protected from misuse (Roper). Lawmakers have revised the laws numerous times but the purpose have remained constant, which is to protect the author in the event their work is copied, redistributed or imitated and distributed to the public without prior consent (Roper). One of the expanded terms of copyright law includes fair use. Congress created the Copyright Act of 1976 originally existing without time constraints but over time changing to include renewals for copyright, which later expanded to have copyright lasting until the author’s death (Roper).

Controversy exists in distance learning due to being “no one clearly has defined who owns the intellectual property a teacher creates” (Roper, 2012, p. 17). Roper (2012) states intellectual property “as any invention, creative work, or discovery from a person that contains value” (p. 17). In education, this can include books, assignments, reading materials and syllabi. Due to this it seems best that distance educators seek permission for use of copyrighted
materials. Laws do not exempt or exonerate them from copyright infringement (Roper). Without seeking prior permission educators and organizations can face litigation.

Additional changes to copyright law include The Digital Millennium Copyright Act (DMCA) in 1998 and the Technology, Education, and Copyright Harmonization Act (TEACH Act) of 2002 (Roper, 2012). The DMCA was created to address Internet piracy threats (Roper). The TEACH Act was passed by the government to address materials used for online and distance education; in regards to reproduction and distributing and outlines fair use of digital materials (Roper). For example, in 2008, three publishers, Oxford University Press, Cambridge University Press, and Sage Publications sued Georgia State University (GSU) for 99 counts of copyright infringement on the basis of unauthorized copying and distribution on the school’s website (Roper). After a four year court battle, a judge finally ruled the verdict that GSU had violated five of the 99 alleged copyright infringements (Roper). Organizations should use this case as a cautionary tale when deciding what the company may consider fair use of copyrighted materials.

According to Roper (2012), there are strategies that can be put into place to avoid copyright infringement such as universities linking with open access communities for accessing online scholarly works; where no user fees or prior permission is needed. In addition, as copyright laws continues to expand it may become necessary to create positions for handling copyright issues such as in a legal counsel department within an organization (Roper). Also educators can “register their revenue-generating materials” (Roper, 2012, p. 18). This can help in the even that a legal battle ensues and offers a better legal position in case of a lawsuit. Roper (2012), stated that in 2006, the government could impose fines from “$750 to $150,000 per infraction” (p. 18), and those penalties could increase over the years.
Indeed, while ignorance does not allow escape from prosecution, copyright law can be challenging to adhere to as the law is in a constant state of fluctuation. Teaching professionals are seeing that as technology is changing the way education is being taught that policies are needed in safeguarding them against copyright infringement. Technology is changing rapidly and with increased access to higher education online it is necessary to seek prior permission to use copyrighted materials. Understanding what copyright is and how it pertains to their method of lesson delivery is crucial in avoiding unnecessary lawsuits. Those who fail to acquaint themselves with the nuances of ever changing copyright laws may find themselves facing steep penalties as well as their organizations.
References
