

Knowledge Level of Library Deans and Directors in Copyright Law

John Eye

Eye, J. (2013). Knowledge Level of Library Deans and Directors in Copyright Law. *Journal of Librarianship and Scholarly Communication* 2(1):eP1103. <http://dx.doi.org/10.7710/2162-3309.1103>

© 2013 by the author(s). This open access article is distributed under a Creative Commons Attribution License, which allows unrestricted use, distribution, and reproduction in any medium, providing the original author and source are credited.

JLSC is a quarterly journal sponsored and published by Pacific University Library | ISSN 2162-3309 | <http://jlsc-pub.org>

Knowledge Level of Library Deans and Directors in Copyright Law

John Eye *Dean of Library Services & Professor of Library Science, Southern Utah University*

Abstract

INTRODUCTION Copyright law is an increasingly important aspect of managing an academic library. This study investigated the copyright knowledge level of academic library deans and directors and their perceptions of how it affects their abilities to oversee the development and enforcement of copyright-related library policies. The perceived adequacy of the copyright training currently available in library schools was also examined. **METHODS** A random sample of academic library deans and directors was asked to complete a web-based survey articulating their level of copyright knowledge and perceptions associated with how they are able to apply it toward their work with policies. **RESULTS** Respondents scored a mean of 77.49% on ten questions of basic copyright law concepts. A majority of deans and directors indicated they believe their knowledge, as well as that of those working under their supervision, is adequate to make informed decisions. However, almost 90% of the respondents were either neutral or disagreed that library school programs are providing adequate training in copyright law to academic librarians. **DISCUSSION** The evidence from this study reveals that library deans and directors have a basic knowledge of copyright law concepts; however, it is unclear as to whether their understanding is sufficient to provide a sound basis for developing and sustaining operational policies and strategic directions for their libraries. It is clear that participants acknowledged the need for more training in copyright law as part of basic preparation for librarianship. **CONCLUSION** Deans and directors of academic libraries have a working knowledge of copyright law but more training is needed to provide library professionals with the tools necessary to carry out the work of effectively managing collections and services, especially in this new and emerging digital environment.

Implications for Practice:

- This article will help describe the level of knowledge deans and directors of academic libraries currently have involving copyright law.
- Evidence from this study will help inform decisions associated with copyright training for librarians.
- Understanding the level of proficiency librarians have in copyright law will stimulate professional discussions about the need for more attention concerning the academic library's role in copyright law on campus.

Received: 08/20/2013 Accepted: 10/07/2013



© 2013 Eye. This open access article is distributed under a Creative Commons Attribution 3.0 Unported License, which allows unrestricted use, distribution, and reproduction in any medium, provided the original author and source are credited.

INTRODUCTION

Academic library deans and directors act as the chief executives of the library enterprises on campuses, leading the effort in establishing effective policies and efficient organizational structures to provide access to information. More and more, as technology continues to change the way information is accessed, organized, and preserved, copyright law is a factor in how libraries respond to these demands. As libraries formulate their responses through policy creation, library deans and directors are placed in a position where substantial and far reaching decisions are required involving copyright law. Even with access to university counsel, who often does not have significant intellectual property law expertise, it may be difficult to obtain reliable advice since the full impact of the situation may not be fully realized by those outside the day to day operation of the library. An overly conservative assessment of copyright risk may result in unnecessary expenditures of human and financial resources while an excessively liberal interpretation may lead to undesired exposure to ethical scrutiny and legal action from copyright holders (Crews, 1990; Chase, 1993; Cross & Edwards, 2011). Therefore, academic library deans and directors often find themselves in a predicament where their knowledge of copyright law is inadequate for the level of administration and management required.

Little has been written about the level of knowledge academic library deans and directors have in copyright law. The legal and ethical use of intellectual property is addressed only briefly, if at all, in most library school curriculum with no American Library Association (ALA) accredited library school that requires “any legal education in order to graduate” (Cross & Edwards, 2011, p. 539) and there are no known studies that have investigated the capability of academic library deans and directors in the understanding of copyright law to better formulate policies that manage risk and encourage access to information. By examining how well academic library deans and directors understand copyright law and their perception of how their training has positioned them to better manage resources, limit risk, and encourage access to information, this study identifies possible areas for improvement in the education and training provided at library schools and also affirms the need for ongoing professional development for librarians and library leaders.

Research Questions

The purpose of this study was to determine the level of copyright law knowledge academic library deans and directors possess. Three main questions were the focus of this investigation:

1. What level of copyright law knowledge is demonstrated by library deans and directors through the administration of a 10 question basic copyright test?
2. What level of proficiency do library deans and directors self-report in the formulation of copyright policy in academic libraries?
3. Are library schools providing adequate training in copyright law to librarians from the perspective of library deans and directors?

For the purposes of this study, academic libraries are defined as those with a primary role of serving undergraduate students, graduate students, and faculty in a public or private four year college or university setting with at least 1,000 student full time equivalents (FTE). Library deans and directors are defined as the top level administrator or authority responsible and accountable for the daily and long term administration of the library. Librarians are defined as library professionals holding at least a graduate degree in library science or equivalent educational experience. Knowledge level and perceptions of proficiency and adequacy of training are measured by administering closed ended survey questions to deans and directors at academic libraries (Appendix A).

LITERATURE REVIEW

Copyright law can be ambiguous and confusing to interpret; especially with “the proliferation of misinformation and misstatements” surrounding it (Butler, 2010, p. 19), but that should not dissuade library professionals from developing and implementing policies that balance access to information with respect for the restrictions that carry both legal and ethical implications. McDermott (2012) argues that “The library community can no longer afford to consider intellectual property law as a foreign topic appropriate for law schools but not library schools” (p. 16). There is an accumulating body of evidence indicating the library profession has fallen behind in recognizing the

importance of understanding copyright law as a critical factor in effective librarianship.

Current Context

A contributing factor to the confusion about copyright law is likely the lack of case law related to education in general, let alone to academic libraries. Jaszi (2013) writes, “the courts have given us little, if any, specific guidance on how to think about fair use and education” (p. 1). With few legal precedents to inform the interpretation of copyright law in libraries, it is difficult to design and implement clear policies and practices. However, a recent district court decision, *Cambridge University Press vs. Becker* (2012), (known as the Georgia State case) has provided at least some light on how fair use can be interpreted for electronic reserves. Another recent case was *Authors Guild vs. Hathitrust* (2012), in which the court provided valuable insight into what fair use looks like for libraries, especially in a transformational context. A third recent copyright case involving libraries was *Association for Information Media and Equipment vs. Regents of the University of California* (2012); however, it was dismissed by the court and much of the case hinged on non-copyright matters.

Despite this latest flurry of legal activity there are still many unanswered questions, especially regarding fair use in electronic reserves, interlibrary loan, and the digitization of collections. Fortunately, a new resource which has become helpful for librarians is the *Code of Best Practices in Fair Use for Academic and Research Libraries* (2012). This publication establishes a framework in which best practices under copyright can emerge, and provide librarians with confidence in determining a fair and legal balance between creators’ rights and society’s need for access to information.

Copyright Knowledge Level and Proficiency

Hopefully, the guidance provided by the Georgia State and Hathitrust cases, as well as the *Code of Best Practices*, will contribute to improved knowledge and practices among librarians. Relatively recent research indicates that both knowledge and practice have been wanting. In Schlosser’s (2009) study of copyright statements on digital library collections, she found only “half the collections surveyed had copyright statements, and those statements were often difficult to distinguish from

terms of use and were frequently vague or misleading” (p. 371). She speculates one reason for this is the lack of copyright knowledge within our libraries. Chase (1994) conducted a study of media directors in higher education and found “18% were able to achieve the established proficiency level of 75%” when asked questions on “copyright law and related guidelines” (p. 45). He goes on to conclude, “Many educators are frustrated by the limitations of the Copyright Act, but if they fully understood the law and its intent, they would understand the liberal degree of latitude that is available” (p. 48).

Library School Training in Copyright Law

Dames (2006) observes that only two ALA-accredited library schools offer copyright courses, and “less than half (only 24 of 49 schools) offer a course that addresses information policy or legal issues on any level” (p. 14). He goes on to say:

Given the importance of copyright issues in daily professional librarianship and library advocacy, it speaks poorly for our profession that so many librarians enter the workforce without proper grounding in copyright, the legal construct that governs the creation, reproduction, distribution, and repurposing of information. (p. 15)

Five years later, Cross & Edwards (2011) studied all ALA-accredited graduate programs and found 73% offer some type of legal education but over half only provide either zero or one class in this area. But as mentioned earlier, none of the programs require any type of legal coursework to graduate. The authors go on to conclude:

Unfortunately, the current state of legal education within LIS programs raises particular concerns in that it may give some librarians a false sense of security. In the absence of thorough legal education, commonly repeated misinformation may take hold and be perpetuated. (p. 545)

In another review of ALA-accredited programs, Gathegi & Burke (2008) found that progress is being made in providing legal education in the curriculum, with library and information science (LIS) school deans and directors recognizing the importance of law related courses. However, the authors pointed out, “A

surprising finding, given the current issues in the field, was the paucity of courses in intellectual property/copyright” (p. 16-17). Despite the overall increase of courses dealing with the broad topics of information law, legal information management and processing, and intellectual freedom and ethics, copyright education seems to be an area which continues to be ignored or overlooked. Interestingly, Dryden (2011) studied Canadian graduate library and archives education programs and found copyright education courses to be the most common of the legal education classes offered. However, she discloses that accurate data is difficult to compile since course descriptions do not always include a complete and specific accounting of all topics covered.

METHODS

Sample

For this study, library deans and directors at academic libraries in the United States were surveyed using Google Docs software and contacted via e-mail. A random sample of 1,106 library deans or directors was drawn from a population of over 1,473 degree granting universities of over 1,000 student full time equivalents (FTE). Schools under 1,000 FTE were excluded not because they are immune to copyright challenges, but due to the difficulty in harvesting dean and director e-mail addresses from the library websites. School lists were compiled from the National Center for Educational Statistics (NCES) website and electronic mail addresses were collected for the deans/directors at the 1,106 academic libraries using individual web site searches.

Data Collection

This study employed the use of survey questions (Appendix A) to collect data, capitalizing on the inherent advantage of survey research to uncover inferences in a population based on a small sample (Connaway & Powell, 2010; Hank, Jordan, & Wildemuth, 2009). Questions were designed to examine the basic knowledge level of library deans and directors and find out about their comfort level in the development and oversight of copyright policies. Although a more comprehensive instrument may have provided a richer view of the topic, in an effort to promote a robust response rate (a difficult feat with any population let alone busy library deans and directors) a balance was struck by limiting

the survey to 10 copyright knowledge questions and 4 supporting questions on educational background (Q1) and perceptions involving copyright training (Q12-Q14). In addition, a qualitative “comments” opportunity was provided to gather feedback at the end of the survey. The questions were reviewed by three authorities well versed in library copyright issues who provided advice and constructive criticism. The goal was to create an assessment which represents a basic level of copyright knowledge for library deans and directors without the need to pour over numerous specific facts.

To assess the copyright knowledge level of each participant, short multiple-choice questions and brief scenarios were used. To make for a more productive and rewarding experience, upon the completion of the survey, participants were provided with the correct answers and a corresponding discussion which justified the solution. This only occurred for questions assessing knowledge level of copyright law.

Before any data were gathered, institutional review board (IRB) approval was secured and assurances were made to maintain confidentiality of the respondents’ information. Participants were apprised of the voluntary nature of this survey and reminded that they may discontinue their involvement at any time.

Response Rate

Web-based surveys were distributed directly to each dean or director’s e-mail address using Google forms software and downloaded into a Microsoft Excel spreadsheet. A randomized total of 1,106 e-mail invitations to participate were sent on February 25, 2013, out of the total population of 1,473 institutions. Reminder e-mails were sent one time on March 6, 2013 and a total of 417 responses were captured for a response rate of 38%. Of the 417 responses, 58 of the responses did not come from the library dean or director’s e-mail address; therefore, the surveys were likely completed by someone other than the dean or director. This phenomenon was confirmed by several comments provided in the survey itself. Since these contributions likely did not represent the knowledge and perspective of the corresponding library dean or director, they were not used. In sum, a total of 359 responses were usable for this study, 32% of the sample, and 109 responses, or 30%, contained a voluntary comment.

Analysis of Data

The data were analyzed using a descriptive quantitative design of closed-ended survey questions, summarized numerically of totals, means, and medians in narrative and table format. Data collected from questions 2 through 11 were combined and averaged to reflect an overall value representing copyright knowledge level. Questions 12 through 14 were analyzed individually and reported as a frequency distribution in table format. In addition, an analysis of variance (ANOVA) was used to investigate the effect of five independent variables on the dependent variable, quiz score. The five independent variables were the ALA-accredited master's degree (Q1), size of institution, perceived preparedness in basic copyright law of subordinate librarians (Q12), belief of adequate preparation by library schools (Q13), and self-perception of copyright knowledge (Q14); the first was collapsed to two levels and the last three were collapsed into three levels for use in the ANOVA. SPSS, version 21, was used for data analysis, $\alpha = .05$. Qualitatively, voluntary comments were collected and summarized in a frequency distribution.

Limitations

Several factors impact the validity and reliability of this study. Participants who observed the subject of the survey may have opted not to participate due to an uneasy and anxious response to the inherent ambiguous nature of copyright law. Past frustrations of working with and trying to understand copyright law may have also skewed participation toward those most comfortable with copyright law, resulting in a pool of responses which represent a stronger knowledge level than actually exists in the general population. Another factor which could have influenced participation is the possible philosophy of some deans and directors who believe knowledge of copyright law is not necessary for them since their organizations employ specialists in the field who handle those issues, such as a scholarly communication or copyright librarian. These deans and directors may feel copyright knowledge for them is a low priority and therefore; not a serious matter worth contemplating. A third factor which may undermine the integrity of this study is the nature of the survey questions (particularly the brief scenarios), which required a single correct response. As carefully as the questions were designed, they may not accurately capture the essence and range of

circumstances that could exist in the scenario presented. Copyright law is usually determined on a case-by-case basis and respondents' unique experiences with similar cases may have influenced their choice of response. A final factor that was unanticipated and influenced the number of useable responses was the number of surveys that were completed by delegation. Just fewer than 15% of the responses were received from e-mail addresses that did not match the dean or directors'. Comments in the surveys also indicate that deans and directors forwarded the e-mail request for participation to a colleague; some indicated the reason was that such a person had more knowledge in copyright law, thus undermining the purpose of this study. In all, these influences should be considered when generalizing the results.

RESULTS

The purpose of this study was to investigate the knowledge level of library deans and directors in academic libraries of universities and colleges with over 1000 student FTE. Three questions were the focus of this investigation:

1. What level of copyright law knowledge is demonstrated by library deans and directors through the administration of a 10 question basic copyright test?
2. What level of proficiency do library deans and directors self-report in the formulation of copyright policy in academic libraries?
3. Are library schools providing adequate training in copyright law to librarians from the perspective of library deans and directors?

The variables used to describe the knowledge level of library deans and directors were (a) the number correct out of ten questions on basic copyright law and (b) the perceived preparedness of library deans and directors in basic copyright law. Perceived preparedness in basic copyright law of subordinate librarians and perceived adequacy of training in copyright law by library schools were each measured using single items.

Demographics

Over half of the library deans or directors who participated in this study were from academic institutions with 1000 to 4999 student FTE. Ten percent of the respondents

were from large universities with a student population of 20,000 FTE or more (Table 1).

As shown in Table 2, respondents had a variety of degree combinations as part of their educational backgrounds, primarily including at least an ALA-accredited master's degree (93%). The other most common degrees held include a non-ALA accredited master's degree (37%) and the doctorate (21%).

Copyright Knowledge

As a group, library deans and directors answered correctly a mean of 77.49% of the 10 questions. They performed strongest in understanding that, generally speaking, copyright law prohibits making a copy of a copyrighted work and selling it to a friend (99.72%) and identifying simple facts as having no protection under copyright law (99.16%). The participants also scored highly in identifying the best definition of fair use among four choices, a limitation on the exclusive rights of copyright holders which allows someone the right to copy or use copyrighted material without permission (94.43%). Among the weakest areas of performance was the understanding of section 110(1) of the copyright law, the exemption of certain performances and displays (50.97%). Another concept that revealed somewhat weak knowledge by participants was that each of the fair use

factors defined in law need not be satisfied for an overall finding of fair use (55.99%). For example, using the entire work does not necessarily obstruct a finding of fair use. Table 3 (following page) summarizes the mean scores for each type of question and Appendix A represents the exact questions used in the survey.

The size of the institution or the respondent holding an ALA-accredited master's degree (Table 4, following page) did not have a significant effect on the quiz score, $F(3, 272) = 1.344, p = .652$ and $F(1, 272) = 1.476, p = .226$ respectively.

Self-Perception of Copyright Knowledge

Participants were asked to reflect on their own copyright knowledge, specifically, how they are able to make sound decisions in the development and enforcement of copyright policies. A total of 64.9% of the respondents indicated they agreed or strongly agreed they had adequate knowledge of copyright law. Just over 12% marked they either disagreed or strongly disagreed with the notion they had adequate knowledge to make sound decisions concerning copyright law. Table 5 (page 8) shows the breakdown for all responses.

The ANOVA revealed a significant effect of the self-perception of copyright knowledge on the quiz score,

Table 1. Respondents by size of institution in student FTE

Size in FTE	Number of respondents	Percentage of respondents
1000 – 4999	220	61%
5000 – 9999	59	16%
10000 – 19999	44	12%
20000 and above	36	10%

Table 2. Respondents by educational background

Degree	Number of respondents	Percentage of respondents
ALA accredited Master's	334	93%
Other Master's	132	37%
Education Specialist	13	4%
Juris Doctorate	7	2%
Doctorate	76	21%

that is, responses indicating a self-perception of adequate copyright law knowledge seemed to have a significant effect on the quiz score, $F(2, 272) = 3.610, p = .028$.

Copyright Training for Librarians

Library deans and directors were also asked to respond to two questions concerning the training of academic librarians in copyright law. In general, slightly more than half indicated a belief that the librarians working for them were prepared to understand and make informed decisions involving copyright law. Table 6 (following page) shows the breakdown for all responses.

No significant effect was found with the perception of librarian understanding of copyright law on the quiz score, $F(2, 272) = 2.177, p = .415$.

When asked about the copyright law training provided by MLS or MLIS degree programs, respondents were more critical, largely indicating these programs are not meeting the needs of librarians. Less than 11% responded they agreed or strongly agreed with the statement that copyright law training in MLS or MLIS programs are

adequate. Table 7 (following page) reflects the complete arrangement of responses.

The perceived adequacy of library school training in copyright law did not yield a significant effect on the quiz score, $F(2, 272) = 2.105, p = .124$.

Comments from Participants

Participants were provided an opportunity to submit comments regarding the study, and a variety of responses were collected. The most common, with 29 occurrences, indicated they relied on copyright experts either in the library or on campus to make decisions or solve problems. The next most frequent were comments acknowledging the ambiguousness of copyright law, with 6 such responses. Table 8 (page 9) summarizes the substantive comments provided.

DISCUSSION

Despite the importance and significance of copyright law in academic libraries, little has been written about the knowledge level of those who work in these enterprises.

Table 3. Performance on copyright questions by respondents

Type of question	Mean percent correct
The purpose of copyright law	67.69%
Idea / expression dichotomy	99.16%
Definition of fair use	94.43%
Non-exclusive fair use factors	55.99%
Licensing vs. fair use	72.14%
Exclusive rights / first sale doctrine	99.72%
Exclusive rights, facts	82.45%
Exemption of performances and displays	50.97%
First sale doctrine	81.34%
Copyright vs. plagiarism	71.03%

Note: Questions listed in same order as #2 through #11 in Appendix A

Table 4. Performance by type of educational background

Degree	Number of respondents	Mean quiz score	Mean percent correct
ALA accredited MLS	334	7.79	77.9
Without ALA accredited MLS	25	7.16	71.6

Table 5. Do you believe, as the dean or director of your library, you have adequate knowledge of copyright law to make sound decisions in the development and enforcement of copyright policies?

Answer	Number of respondents	Percentage of respondents	Mean percent correct	Mean quiz score
Strongly agree	38	10.6%	8.06	80.6
Agree	195	54.3%		
Neutral	82	22.8%	7.34	73.4
Disagree	41	11.4%	6.84	68.4
Strongly disagree	3	0.8%		

Note: Answers were collapsed into three levels for purposes of the ANOVA

Table 6. To what degree do you believe librarians working in your library are prepared to understand and make informed decisions involving copyright law?

Answer	Number of respondents	Percentage of respondents	Mean percent correct	Mean quiz score
Extremely prepared	9	2.5%	7.83	78.3
Adequately prepared	183	51.0%		
Neutral	95	26.5%	7.63	76.3
Unprepared	71	19.8%	7.68	76.8
Extremely unprepared	1	0.3%		

Note: Answers were collapsed into three levels for purposes of the ANOVA

Table 7. Do you believe, as the dean or director of your library, you have adequate knowledge of copyright law to make sound decisions in the development and enforcement of copyright policies?

Answer	Number of respondents	Percentage of respondents	Mean percent correct	Mean quiz score
Strongly agree	1	0.3%	7.40	74.0
Agree	38	10.6%		
Neutral	148	41.3%	7.66	76.6
Disagree	141	39.4%	7.91	79.1
Strongly disagree	30	8.4%		

Note: Answers were collapsed into three levels for purposes of the ANOVA

Table 8. Substantive comments provided by participants

Summary	Frequency
Rely on copyright experts in library or on campus	29
Copyright law is ambiguous and subject to interpretation	6
Librarians should not be the “copyright police”	5
Received copyright training outside of library school	4
I look up the answer when needed	4
Library should be a place to turn for copyright answers	3
Library not trained or authorized to field questions	2
Copyright rules are different for private institutions	2
There is a wide variety of views regarding copyright in my library	2
Copyright law needs to be updated to work better with digital content	1
Most MLS recipients cannot detect predatory practices in copyright	1
Library schools should not be providing copyright training	1
Need for campus administration to acknowledge copyright issues	1
Fair use a right, not an exception	1

This study was intended to shed a brighter light on the knowledge and perceptions of library deans and directors, who arguably have the most influence on the operational priorities and strategic direction of academic libraries. Those who have written on this subject previously seem to indicate a need for a more deliberate effort in training librarians to be more proficient in copyright. As might be expected, the factors involved in this matter are complex and multidimensional.

Beyond the Basics: The Complexity of Copyright Law

The results of this study show library deans and directors seem to have at least a working knowledge of basic copyright law, despite the reported scarcity of formal training, especially in library schools. Together, they correctly answered a mean of 77.49% of the ten questions in the quiz, with the most success related to defining fair use, the exclusive rights of copyright holders, and the nature of copyrightable work. In contrast, areas of weakness were the copyright exception for public performances and displays, section 110(1) of the copyright law, and the non-exclusive application of the four factors of fair use.

The implications of respondents’ general success on the quiz are not entirely clear—does it mean that deans and directors possess adequate knowledge? The complexity

of many copyright cases far exceeds the questions and scenarios presented in the instrument used for this study. That is, actual cases are usually highly dependent on the specific facts of the situation. So establishing broad, absolute, generalizations are difficult at best. On the other hand, it could be argued that all librarians should possess the baseline knowledge outlined in the quiz. As information professionals, they should be able to identify fair use along with the associated fundamental concepts identified in the survey instrument.¹ Nonetheless, many of the participants commented that they employ specialists who are designated to become involved with copyright issues, implying their level of knowledge in copyright law, as deans and directors, is less important. In fact, several respondents in this study contended rather assertively that librarians (or their directors) should not be in a position of copyright enforcement. That is, they subscribe to the notion library staff should not be acting as “copyright police.” Certainly there are circumstances when it is sensible to seek the advice of legal counsel for significant policy design and cases involving complex arrangements of facts. But is it feasible to do this for day to day matters? One could argue that whether academic libraries choose to accept the role of enforcement of copyright policies for appropriate situations or not, they

¹ Going further, perhaps all undergraduate students should emerge from their academic experiences with these concepts in order to be productive members of society, with librarians leading the effort for instruction.

will likely find themselves involved nevertheless by virtue of their role as information consultants and experts. Therefore, in this information age, library professionals need to have at least a basic understanding of copyright law to perform many of the fundamental functions they provide, despite its complexity and ambiguousness.

The Need for More Training in Copyright Law

Notwithstanding the rather positive performance academic library deans and directors demonstrated on the copyright knowledge assessment, it is clear there is a recognized need for more significant training in copyright law. Less than 11% of respondents agreed library schools were providing adequate training in copyright law to academic librarians, while 41.3% were neutral and 47.8% either disagreed or strongly disagreed. Several commented on the frustration they experience with copyright issues, especially the law's ambiguity and lack of clarity in the digital realm. With many library schools not engaged in copyright training and the need for library professionals to keep informed with the changes emerging in the law, they turn to organizations like the Association of Research Libraries, the American Library Association, and other reputable sources of continuing education. Unfortunately, a well-respected authority in copyright education, the Center for Intellectual Property at the University of Maryland University College, recently announced the closing of their operation as they "re-prioritize the strategic direction of the University" (M. Cini, personal communication, May 22, 2013). Webinars and workshops through these organizations and at many professional conferences provide up-to-date copyright information, especially on recent litigation.

It is especially interesting to examine how respondents reported their own knowledge of copyright law as largely adequate (64.9%), as well as the knowledge of the librarians working under their supervision (53.5%)—yet less than 11% agreed library schools were providing adequate training in copyright law to academic librarians. It does not appear, based on this study, that an ALA-accredited master's degree had a significant effect on copyright knowledge. Rather, library deans and directors seem to be educating themselves about copyright law. The comments provided by the participants point to continuing education and consultation with experts as the likely means through which they are accomplishing this.

There are economic and legal consequences for a lack of copyright knowledge in academic libraries (Crews, 1990; Chase, 1993; Cross & Edwards, 2011). For example, the quiz scores reveal a relative lack of knowledge in the exemption of performances and displays (50.97% correct), known as section 110(1), and the understanding that all four factors of fair use do not need to be satisfied for a finding of fair use (55.99% correct). Purchasing public performance rights for materials where the use clearly falls under the 110(1) exemption is unnecessary and costly. Additionally, requiring all four factors to be met for a finding of fair use may tilt the balance between the protection of creators' expression and access to information too far, increasing costs and limiting access. Avoiding these types of potential legal and economic compromises could be limited though improved training in copyright law.

Possibilities for Future Research

More evidence is needed to discover the level and range of copyright expertise that exists on campuses of higher education. Since copyright law affects the whole university enterprise, not just the library, how are copyright related decisions being made, and by whom? Another area in need of investigation is the level of copyright law knowledge and education of university counsels. Do library and other university administrators have access to attorneys with expertise in intellectual property law?

CONCLUSION

With the proliferation of electronic forms of information increasingly regulated by both licenses and copyright law, library professionals have a growing responsibility to become adept in understanding the legal and ethical implications of their decisions regarding its access, organization, and preservation. As experts in these areas, library authorities should model and teach appropriate use to their colleagues and constituents through a balanced approach, acknowledging the individual rights of copyright holders against the need for a just and democratic society to have access to information, a position that if interpreted too heavily in either direction is not desirable. As Judge Alex Kozinski from the United States Court of Appeals in the Ninth Circuit wrote:

Overprotecting intellectual property is as harmful as underprotecting it. Creativity is impossible

without a rich public domain. Nothing today, likely nothing since we tamed fire, is genuinely new: Culture, like science and technology, grows by accretion, each new creator building on the works of those who came before. Overprotection stifles the very creative forces it's supposed to nurture. (White v. Samsung Electronics America, Inc., 1993)

In order for library deans and directors to guide their institutions in successfully navigating this balanced approach to copyright—and to effectively advocate for future adjustments and revisions in the law that will improve access to information and dissolve barriers currently facing libraries and their users—it is absolutely critical for these leaders to be intellectually prepared. Without adequate knowledge and awareness to be thoughtfully engaged, current frustration with intellectual property matters will continue to fester and distract from the efficiency and productivity of the academic environment.

ACKNOWLEDGEMENTS

Special thanks should be directed to Patricia Aufderheide, Brandon Butler, and Kevin Smith for their comments and suggestions. Marty Eye also assisted in data collection and editing, also much appreciated. And to my wife, Krista, thanks for your unwavering love and support.

REFERENCES

- Association for Information Media and Equipment v. Regents of the University of California, No. 2:10-cv-09378-CBM (C.D.Cal. November 20, 2012).
- Authors Guild, Inc. vs. Hathitrust, et. al., 902 F.Supp.2d 445 (S.D.N.Y. October 10, 2012).
- Butler, B. (2010, June). Urban copyright legends. *Research Library Issues: A Bimonthly Report from ARL, CNI, and SPARC*, (270), 16-20. Retrieved from <http://www.arl.org/resources/pubs/rli/archive/rli270.shtml>
- Cambridge University Press v. Becker., 863 F.Supp.2d 1190 (N.D.Ga. May 11, 2012).
- Chase, M. E. (1993). Educators' attitudes and related copyright issues in education: A review of selected research 1980-1992. *The Journal of Academic Media Librarianship*, 1(1), 1-9. Retrieved from <http://wings.buffalo.edu/publications/mcjrl/v1n1/chase.html>
- Chase, M. E. (1994). *An analysis of the knowledge levels of media directors concerning relevant copyright issues in higher education*. (Unpublished doctoral dissertation). Retrieved from ProQuest Dissertations and Theses. (9521416)
- Code of best practices in fair use for academic and research libraries*. (2012, January). Center for Social Media. Retrieved from <http://www.arl.org/storage/documents/publications/code-of-best-practices-fair-use.pdf>
- Connaway, L. S. & Powell, R. R. (2010). *Basic research methods for librarians*. Santa Barbara, CA: Libraries Unlimited.
- Crews, K. D. (1990). *Copyright policies at American research universities: Balancing information needs and legal limits*. (Unpublished doctoral dissertation). Retrieved from ProQuest Dissertations and Theses. (9033952)
- Cross, W. M. & Edwards, P. M. (2011). Preservice legal education for academic librarians within ALA-accredited degree programs. *portal: Libraries and the Academy*, 11, 533-550.
- Dames, K. M. (2006, February). Library schools and the copyright knowledge gap. *Information Today*, 23(2), 1-15.
- Dryden, J. (2011). Learning about law in library school: A snapshot. *Journal of Education for Library & Information Science*, 52(3), 184-197.
- Gathegi, J. N. & Burke, D. E. (2008). Convergence of information and law: A comparative study between i-schools and other ALISE schools. *Journal of Education for Library and Information Science*, 49(1), 1-22.
- Hank, C., Jordan, M. W., Wildemuth, B. M. (2009). Survey research. In B. M. Wildemuth (Ed.), *Applications of social research methods to questions in information and library science* (pp. 256-269). Santa Barbara, CA: Libraries Unlimited.
- Jaszi, P. (2013). Fair use and education: The way forward. *Law and Literature*, 25(1), 33-49. <http://dx.doi.org/10.1525/lal.2013.25.1.33>
- McDermott, A. J. (2012). Copyright: Regulation out of line with our digital reality? *Information Technology and Libraries*, 31(1), 7-20. <http://dx.doi.org/10.6017/ital.v31i1.1859>
- Schlosser, M. (2009). Unless otherwise indicated: A survey of copyright statements on digital library collections. *College & Research Libraries*, 70, 371-385.
- White v. Samsung Electronics America, Inc., No. 90-55840 (C.A.9 March 18, 1993).

APPENDIX A

Survey Questions

Upon completion of this survey, you will receive an automated e-mail containing the correct answers for questions associated with copyright knowledge, #2 through #11. You may exit this survey at any time.

1. Please indicate your educational training:

Please check all that apply.

- ALA-accredited master's degree
- Other master's degree
- Education specialist's degree
- Doctorate
- Juris Doctorate

For questions 2-11, please select the best answer as it pertains to U.S. copyright law.

2. The purpose of copyright law is to:

- a. ensure authors are paid
- b. promote learning and the dissemination of knowledge**
- c. manage the financial concerns of rights holders
- d. ensure the heirs of right holders can continue to benefit from creative works

3. Which of the following is NOT protected by copyright law?

- a. Musical works
- b. Architectural works
- c. Literary works
- d. Simple facts**

4. Fair use is:

- a. A federal statute that limits the number of times a copyrighted work may be used.
- b. The philosophy that copyrighted material should be priced fairly.
- c. An exception in the copyright law which allows someone the right to copy or use copyrighted material without permission.**
- d. A provision in state law that allows free use of state government publications.

5. Fair use stipulates that all four factors must be satisfied before use of a copyrighted work without permission.

- a. True
- b. False**

6. A license agreement that prohibits all copying is superseded by fair use.

- a. True
- b. False**

7. Even though you own the copyrighted book, U.S. Copyright law prevents you from doing which of the following?
- a. Lend the book to a classmate
 - b. Resell the book to a classmate
 - c. Copy the book and sell the copy to classmates**
 - d. Throw away the book when your class is over
8. Which of the following is NOT copyrighted?
- a. An unpublished paper written by a professor, shared in class
 - b. A federal document such as the Bill of Rights**
 - c. An article from today's newspaper
 - d. An e-mail message you received from a friend who works at a state funded university
9. Professor Smith wants to show an entire copyrighted video, one she personally owns, to her students in a face-to-face setting to illustrate a concept aligned with her course objectives. She teaches for an accredited, non-profit university. The video package says, "Home use only" and she has not signed any contractual agreement with the copyright holder. Can she legally show the entire video to her class without permission?
- a. Yes**
 - b. No
 - c. Not sure
10. Art student Peterson would like to physically alter some discarded library books to produce a creative work for public display. He would remove some covers and pages, affix other materials to them, and apply paint making them unreadable. Does he need permission from the copyright holders before undertaking this endeavor?
- a. Yes, only for the public display
 - b. Yes, only for the alterations to the books
 - c. Yes, for alterations to the books and the public display
 - d. No**
 - e. Not sure
11. Plagiarizing a work in the public domain is:
- a. Illegal
 - b. Unethical**
 - c. Illegal and unethical
 - d. Neither illegal nor unethical

Please select the most accurate response.

12. To what degree do you believe librarians working in your library are prepared to understand and make informed decisions involving copyright law?
- a. Extremely prepared
 - b. Adequately prepared
 - c. Neutral
 - d. Unprepared
 - e. Extremely unprepared

13. Do you believe library schools, through their MLS or MLIS degree programs, are providing adequate training in copyright law to academic librarians?
- a. Strongly agree
 - b. Agree
 - c. Neutral
 - d. Disagree
 - e. Strongly disagree
14. Do you believe, as the dean or director of your library, you have adequate knowledge of copyright law to make sound decisions in the development and enforcement of copyright policies?
- a. Strongly agree
 - b. Agree
 - c. Neutral
 - d. Disagree
 - e. Strongly disagree

CORRESPONDING AUTHOR

John Eye
Dean of Library Services
Professor of Library Science

Southern Utah University
351 West University Boulevard
Cedar City, UT 84720

eye@suu.edu