Copyright Protection of e-learning Contents

Educational fair use guidelines for distance learning

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Abstract

Making copies of physical learning contents has significant effort and costs. On the other hand, in e-learning, there is almost zero cost in duplicating copies and distributing e-learning contents via a network. Therefore, to encourage continued development in e-learning content, protection of copyright is a very important issue. However, our e-learning community lacks knowledge in the copyright issue. Basically, the copyright law is intended to provide protection to creators in order to help boost the knowledge and innovation. However, the copyright law is very complicated to understand for people in IT society. To avoid copyright infringement, e-learning developers and authors need to understand the basic principle of intellectual property right protection and copyright law. The purpose of this paper is to introduce several fundamental concepts and the legal principles of the copyright as applied to e-learning content. This paper will be a valuable contribution towards e-learning community especially for developers and authors of e-learning content.

ملخص

في التعليم الإلكتروني صنع نسخ من محتويات المقررات الالكترونية يحتاج جهدا كبيرا وتكاليف مادية. ومن ناحية أخرى هناك ما يقرب من الصفر من حيث التكلفة في تكرار نسخ وتوزيع محتويات المقرر الإلكتروني عبر شبكة الاتصال. لذلك ، ولتشجيع التطوير المستمر في محتوى المقرر الإلكتروني ، فان حماية حقوق التأليف قضية هامة جدا. ومع ذلك ، نجد المجتمع في التعليم الالكتروني يفتقر إلى المعرفة في مسألة حقوق التأليف والنشر.على الرغم من أن المقصود من قانون حق المؤلف بالأساس توفير الحماية للمبدعين من أجل المساعدة في تعزيز المعرفة والابتكار. ومع ذلك ،نجد ان قانون حق المؤلف معقد للغاية لفهم الناس في مجتمع تكنولوجيا المعلومات.و لتجنب التعدي على حق المؤلف ، فان المطورين والكتاب في التعلم الإلكتروني بحاجة إلى فهم المبدأ الأساسي لحماية حق الملكية الفكرية وقانون حق المؤلف. والغرض من هذه الورقة هو تقديم العديد من المفاهيم الأساسية والمبادئ القانونية لحقوق الطبع والنشر وتطبيقها على محتوى المقرر الإلكتروني. وسوف تكون هذه الورقة مساهمة قيمة نحو التعلم الإلكتروني وخاصة بالنسبة لمجتمع المطورين وواضعي محتوى المقرر الإلكتروني

1. Introduction

Digital media are forms of media content that combine data, voice, and video of all kinds, stored in digital formats, and are increasingly distributed through the networked environment (Flew, 2004,p23) .Information and communication technologies have made works of authorship ever more accessible to the public. As a result, a digital content can be easily copied and instantaneously distributed worldwide through the Internet. In knowledge-based society, the sharing of knowledge in the form of electronic content is challenged by the Internet and the protection of knowledge through copyright.

There are more cases of copyright infringement because the digitization of creative content allows perfect, almost zero cost and unlimited copying of content. Without legal protection and enforcement, authors may not make their content available in digital form.

Today, Universities become producers of electronic content such as copyrighted videos, CD-ROMs, websites and courseware. The potential for commercialization of e-learning courses, CD-ROM's, websites, and software has focused new attention on faculty members' creations which should be recognized in a copyright policy.

Moreover, the University policy must insure that the rights of employees and students as well as those of the institution are protected (Primer on copyright ownership, 2003,p45). Therefore, the copyright is a significant issue at the virtual workplace of universities.

2. What is Copyright?

A purpose of copyright law is to protect for limited times to authors the exclusive rights to their works which may be useful for all mankind. The result of this purpose is that every work will eventually enter into the public domain where it will be freely accessible to all (Phillips, Jeremy, and Alison Firth., 1990,p66) .

Basically, in copyright law, an author's original works is automatically protected once it is fixed in any tangible medium, such as on paper, video, audio, disk, computer memory, CD ROMs, and etc. It protects the form of expression, but not ideas or facts such as the melody in its written form, the software, the course materials displayed on a web page. There is no need to take any formal action to protect the work(Bainbridge, David I., 1992,p54) . Generally, the duration of a copyright varies greatly depending on the year in which it was created or published.

Whenever any person creates a work under the conditions of the copyright, they will be exclusively entitled to do anything to or with regards to the work, for example, its reproduction, adaptation, dissemination to the public and the granting license to other persons to use the said rights(5, 2004,p98). Copyright protection exists in 3 main issues as following(Copyright and Fair Use in the Classroom, on the Internet, 2004,p67). –(D workin, Gerald and Taylor, Richard D, 1990,p90).:

(1) **Original**

The work must be original. The originality requirement of copyright means merely that the work was independently created by the author and possesses some minimal degree of creativity. It is not necessary for the work to be completely original. Works may be mixed, combined, adapted, or transformed in new ways that would make them eligible for copyright protection.

(2) **Works of authorship**

Once a work is fixed in a tangible medium of expression, a minimum level of protection is immediate and automatic. There is no need to take any formal action to protect the work.

(3) **Fixed in any tangible form**

The item must be fixed in some way, in any tangible medium of expression, now known or later developed, from which it can be perceived,

reproduced or otherwise communicated, either directly or with the aid of a machine or device.

This means that the copyright protects the work, which any author creates, in the form in which it is expressed but does not protect the underlying ideas and information in the work. On this account, if any idea is not created to be a work in physical appearance, no copyright protection shall be extended to such idea (Chaiyos Hemarajata, 2004,p57).

The copyrightable works are stipulated as one of the following works(*The Copyright Act B.E. 2537 of Thailand*):

1. Literary works means every production in the literary domain, such as books, writings, printings, lectures, addresses and speeches, including computer programs.
2. Musical works means any musical composition for playing or singing, whether with rhythm and lyrics or only rhythm, and include a musical notes or musical diagrams.
3. Dramatic works means works relating to choreography, dancing, action or performance in dramatic composition, and includes pantomime.
4. Artistic works means any works of painting and drawing, work of sculpture, works of lithography, works of architecture, photographic works, works on illustrations, maps, structures, sketches, or three-dimensional works in relation to geography, topography or science, works of the applied arts, and includes the photographs.
5. Audiovisual works means works composed of a sequence of images recorded in any form of material, which are capable of being replayed by necessary apparatus for using such material, and include a sound track of that work, if any.
6. Sound and video broadcasting works means works communicated to the public by means of radio broadcasting, sound and video broadcasting on television or by other similar means .

7. Sound recordings means works composed of a sequence of music, sound of a performance or any other sound recorded in any form of material.

8. Cinematographic works means audiovisual works composed of any sequence of visual images, which is capable of being continuously shown as moving pictures, and includes the sound track of that moving picture, if any.

3. Protection of Copyright

The owner of a copyright has certain exclusive rights:

1. Reproduction or adaptation

"Reproduction" is any mode of copying, emulation, duplication, block-making, sound recording, computer program, video recording or sound and video recording, from the original, a duplicate or a publication in its material part, and not being in the nature of making a new work, whether wholly or in part.

"Adaptation" is a reproduction by conversion, improvement, amendment or copying of the original in its material part, and not being in the nature of making a new work, whether wholly or in part.

2. Distribute to the public.

Distribute to the public means making the work available to the public by sale or other transfer of ownership, or by rental, lease, or lending.

3. Granting license and duplicates of works

Granting license to other persons to use the right with or without imposing any condition. Letting the originals or the duplicates of computer program works, audio-visual works, cinematographic works and sound recording works.

The term of protection or duration of copyright may differ from one country to the next. Therefore, individuals should observe the legislation of the country in which they propose to enact the use of the copyright work. For

an example, the terms of the protection in part 4 of the Copyright Act B.E. 2537 of Thailand are as follows(*The Copyright Act B.E. 2537 of Thailand*)

Section 19: Subject to Section 21 and Section 22, copyright by virtue of this Act endures for the life of the author and fifty years after the death of the author.

In the case of a work of joint authorship, copyright endures for the life of the joint-authors and fifty years as from the death of the last surviving joint-author.

If the author or all joint-authors is or are dead prior to the publication of the works, copyright endures for fifty years as from the first publication of the work.

In the case of the author being a juristic person, copyright endures for fifty years as from the authorship; provided that if the works is published during such period, copyright endures for fifty years as from the first publication.

Section 20: Copyright by virtue of this Act in a work which is created by a pseudonymous or anonymous author endures for fifty years as from the authorship; provided that if the work is published during such period, copyright endures for fifty years as from the first publication.

If the identity of the author becomes known, Section 19 shall apply *mutatis mutandis*.

Section 21: Copyright in a photographic work, an audiovisual work, a cinematographic work, a sound recording or an audio and video broadcasting work endures for fifty years as from the authorship; provided that if the work is published during such period, copyright endures for fifty years as from the first publication.

Section 22: Copyright in a work of applied art endures for twenty- five years as from the authorship; provided that if the work is published during such period, copyright endures for fifty years as from the first publication.
Section 23: Copyright in a work which is created in the course of employment, instruction or control in accordance with Section 14 endures for fifty years as from the authorship; provided that if the work is published during such period, copyright endures for fifty years as from the first publication.
Section 24: The publication under Section 19, Section 20, Section 21, Section 22 or Section 23 which is the commencement of the term of copyright protection means the publication of the work with consent of the owner of copyright.
Section 25: When the term of copyright protection expires during a year and the expiry date is not the last calendar day of the year or the exact date of expiration is not known, copyright endures until the last day of that calendar year.
Section 26: The publication of a copyright work after the expiration of the term of copyright protection shall not cause a new the copyright in such work.

4. Fair Use of Copyright in Online Education

a. The meaning of distance learning .

Distance learning in general Broadly viewed , distance learning is an educational process that occurs when instruction is delivered to students physically remote from the location or campus of program origin, the main campus , or the primary resources that support instruction .In this process, the requirements for a course or program may be completed through remote communication with instructional and support staff including either one-way or two-way written ,electronic or other media forms (.Educational fair use guidelines for distance learning , www.utsystem.edu/). Distance education involves teaching through the use of telecommunications technologies to transmit and receive various

materials through .

These avenues of teaching often constitute instruction on a closes system limited to students who are pursuing educational opportunities as part of a systematic teaching activity or curriculum and are officially enrolled in the course .Examples of such analog And digital technologies include tele courses , audio and video teleconferences , closed broadcast and cable tele vision systems ,microwave and ITFS ,compresses and full-motion video, networks, audio graphic systems , interactive videodisk ,satellite-based and computer networks .Distance learning in specific(18).Distance education is the acquisition of knowledge and skills through meditated information and instruction , encompassing all technologies and other forms of learning at a distance . Normally distance education is characterized by the following:

-Separation of place and /or time between instructor and leaner , among learners and /or between learners and learning resources.

- Interaction between the leaner and the instructor , among learners, and or between learning resources conducted through one or more media.

- Processes may employ a multiple set of delivery methods in the learning g experience , such as written correspondence study , interactive audio and or video, computer , and other electronic technologies , Each of these may be used alone or in combinations . Use of electronic media is not necessarily required ; technology is a tool to aid the delivery and provision of educational opportunities.

-Processes may be in "real time " interaction between learners and instructors, or "asynchronous" involving the access of instructors and materials by learners at any time.

b. **Application fair use to Distance learning**.

The following questions will be answered in this section:

1.What is the fair use in education?

Fair use is a critically important doctrine in copyright law , one of special

value for scholarship and education .It allows users of copyrighted materials-teachers ,students scholars ,artists-to use copyrighted materials without seeking permission from the creator or publisher and without paying copyright fees .Fair use allows scholars to draw on the work of others in advancing anew argument ,reviewers to criticize , artists to parody ,teachers to acquaint students with fresh insights ..It is critical for the advance of knowledge and for quality education .Of course there are limitations ,the most basic of which is that the use cannot significantly undercut what the creator or publisher might gain from commercial sale of the work. The doctrine of fair use was worked out in a world where print on paper has been the primary medium of communication .What can? what will it look like in a digital ,networked (Educational fair use proposals for distance learning,1996) ? It seems ,at first blush ,that this ought to be a simple question to answer ,However ,it can actually become extremely complex. The fact that a use is for an educational purpose does not automatically make the use legal.

In order to be sure that a particular use qualifies as fair use in distance education , the users should (Douglas Bennett,p67):

1.use copyrighted materials only for strictly educational purposes .
2.work for an accredited non-profit educational institution
3.limit access to the works to students enrolled in the course
4.use only a small fraction of any copyrighted work .
5.avoid uses which would affect the market for the work ,and
6.when possible ,use technology to limit unauthorized ,downstream copying of the work.

b .who owns the rights to instructional material ?

When a faculty member creates course materials including a textbook , tests , answer sheets ,etc .copyright attaches the instant the material is put down on paper ,recorded on tape or saved in a computer memory .Who owns the copyright .Is the faculty member or the college . As noted in the

discussion of the work made for hire doctrine ,if the faculty member created the course materials on college time ,using college resources , or as part of the faculty member job description , then , nothing else appearing , the copyright belongs to the college . However , most colleges have adopted policies relinquishing the copyright back to the author . This has been done for several reasons including providing an incentive to faculty , as a recruitment tool , and because the college investment of resources is relatively small . Additionally , there is usually only a small market for those materials , and the college has not lost much by giving the copyright to the author . In contrast , the college investment of resources in the development of a distance learning course may be great , and the potential market for the course is much expanded over the traditional classroom . This has caused some colleges to reevaluate their copyright policies and make them look more like patent policies in which the college retains the patent but shares net profits with the inventor according to a formula .Other schools are writing contracts for the creation of specific courses , which expressly state that the material will be considered a work made for hire..At a minimum ,the copyright issues that should /must be addressed either in the institution policy or its contract include (Jonathan Henke 1999 ,p34):

1.who owns the copyright ?

2.How will any net profits be divided ?

3.will the institution retain a non-exclusive right to use the materials (also sometimes referred to as shop rights

4.Who has the right to update or modify the materials and to create derivative materials ?

5.If the faculty member /author leaves the institution, will he or she be able to use the materials to teach the course at a new college or to compete with the old institution in the distance learning market ?

6. Will the author warrant that the materials which he or she has used are

either original , or not in violation of a pre-existing copyright.?

c. What are the rules for fair use for instructors ?.

Copying by teachers must meet the tests of brevity and spontaneity (Lucien Capone , 1999,p32).:

1.Brevity refers to how much of the work you can copy .

2.Spontaneity refers to how many times you can copy .

According to the rule , the need to copy should occur closely in time to the need to use the copies .If you use something for one semester it is likely to be seen as fair use .If you use something repeatedly ,it is less likely to be considered fair use .The expectation is that you will obtain permission as soon as it is feasible . Using something over a period of years is not within the spirit of the guidelines .

d. What can be copied ?

1.A chapter from a book (never the entire book)

2.An article from a periodical or newspaper.

3.A short story ,essay ,or poem .One work is the norm whether it comes from an individual work or an anthology .

4.A chart ,graph ,diagram ,drawing cartoon or picture from a book , periodical ,or newspaper.

5.poetry ,multiple copies of a poem of 250 words or less that exist on two pages or less or 250 words from a longer poem .

6.prose ,multiple copies of an article ,story or essay that are 2,500 words or less or excerpts up to 1,000 words or 10 percent of the total work whichever is less.

7.Illustrations ,multiple copies of a chart , graph ,diagram ,drawing cartoon , or picture contained in a book or periodical issue .

e. What should be avoided ?

1.Making multiple copies of different works that could substitute for the purchase of books ,publisher reprints ,or periodicals .

2.Copying the same works from semester to semester .

3.Copying the same material for several different courses at the same or different institutions.

4.Copying more than nine separate times in a single semester .

f. When is permission required ?

1.When you intend to use the materials for commercial purposes.

2.When you want to use the materials repeatedly .

3.When you want to use a work in its entirety and it is longer than 2,500 words .

g How do I get permission ?.

1.The office of library services will assist you in obtaining permission for copyright protected materials for use in UMUC classes .Fill out a Web-based form to request that the library obtain copyright permission for specific material on your behalf .

2.For materials to be used outside of UMUC courses ,you must obtain permission yourself .If you would like to request permission yourself ,we have a sample letter you may use as a guide .

h. When should I get permission?

1.When you intend to use the project for commercial or no educational purposes.

2.When you intend to duplicate the project beyond the two copies allowed by the guidelines .

3.When you plan to distribute the project beyond the scope of the guidelines .

l. Questions of infringement

Infringement in the distance learning context comes in two flavors (Copyright and fair use in the classroom ,on the internet ,and the World Wide Web ,www.umuc.edu/library/copy.html):

1.Infringement of the author(s) (copyright .

Infringement of the author s) copyright in distance learning materials is

actionable .An action for infringement may be brought , the work must be fixed , and the copyright must be registered with the copyright office Fixation is usually not in question since the creation of the materials ordinarily involves recording the materials either in written text or in some magnetic or digital medium. However , where a lecture is to be broadcast live either by television or by computer video conferencing , a recording needs to be made simultaneously with the broadcast in order to fix the lecture .The courts have held that a work consisting of sounds, images or both that is being transmitted is sufficiently fixed if a recording is made simultaneously with the transmission .The practical problem the authors of a distance learning course face is one of simply finding out that the copyright has been infringement . When material is published on the Internet it has a potentially worldwide audience .Downloading and copying from the Internet is very easy and can be done without leaving much of a trace. For this reason , access to the course should be password protected . Another good idea is to periodically search the Internet , using a search engine such as Alta Vista , using the name of the course or author(s) to see what turns up .

2.Infringement by the course creator(s).

Infringement by the author(s) of the another copyright is a real danger in the creation of distance learning materials , especially those that use a variety of media such as text , graphics , sound and video. Except for those materials created in the original by the author(s) , any pre-existing work that is incorporated (or modified for incorporation such as by creating a thumbnail image from an original) is likely to be subject to a preexisting copyright (unless it is in the public domain). In the absence of obtaining permission from the copyright owner , the author(s) may be able to argue that the piece falls within the fair use exception . However , this is trickily road fraught with legal land mines . Publishing materials on the Internet adds a whole new dimension to the equation . Whereas it may be

permissible to distribute a handful of copies of an article to a small class for discussion purposes , when that same article is posted on the Internet the potential audience could be in the millions .This , in turn , logarithmically increases the potential for adverse impact on the market for the work –one of the four factors relied upon by the courts to determine whether a use is fair .Again , the best protection , short of obtaining permission , is to password protect the course materials , and to remove them from the Internet as soon as they are no longer needed .

Another example of something that may be a fair use in a traditional classroom but that may not qualify in a distance learning environment is the display of pictures , animations and video clips . Section 110(1) of the U.S Copyright Act generally permits such use in the face –to-face classroom setting .However , transmission to students at a location remote from the teacher in place or time is limited to no dramatic literary and musical works . Motion pictures and videos are excluded from the definition of literary work and thus may not be used without permission . As examples , a professor could read a passage from Scot Throw presumed Innocent , but could not show a clip from the movie as part of a distance learning program .Additionally , when transmission is allowed , it must be to a place that is either a classroom or similar place normally devoted to instruction . Perhaps as distance learning becomes more traditional the student home will qualify , but does not at this point in time . New myths have arisen around the Internet . The one most commonly heard is that anyone who puts material on the web wants people to use it and therefore has granted at least an implied license to copy the material . This is unequivocally untrue .The rules of copyright don't change simply because of the medium used to express an idea . Unless the author explicitly states that the work is being placed in the public domain, the author copyright exists and is enforceable . Another myth is that it is okay to copy material onto your website as long as you give appropriate credit and do not charge

people to access your site . Again , giving credit may avoid a charge of plagiarism but it is no defense to infringement .Further , giving away someone else work for free is certainly no defense to infringement since it probably does more damage to the author market for his or her work than if you had charged a fee.

m. Applicable Law in Distance Learning(Lucien Capone , 1999,p80). The use of works on the Internet is therefore governed by the general rules of copyright legislation .The only question is: which country legislation .The problems of applicable law are associated with the actual transmission between two computers coupled to the Internet .The question is whether this transmission is governed by copyright legislation in the country of origin (where the server is placed) or in the recipient country (where the user is placed).The question of applicable law in copyright disputes in tort seems to have been settled in the Berne Convention. According to Article 5(2) of that Convention , "the extent of protection , as well as the means of redress afforded to the author to protect his rights, shall be governed ….exclusively by the laws of the country where protection is claimed." Where is copyright protection claimed? Obviously , it is claimed where the exploitation and , therefore, any breach of the law has occurred .In other words , the Berne Convention actual refers to lex loci deliciti-without voicing an opinion on distance delicates . Therefore applicable law in connection with distance delicates in the field copyright may be dealt with , basically, in the same manner as other distance delicates.
What is the result of these applicable law provisions in the case of copyright infringements in transmissions on the Internet?. In the case of distance delicates it is thus relevant –according to the principles of private international law-to include the legislation of the place of effect , i.e. the rules of the country where the damage occurs. The place of effect in connection with an Internet transmission is the recipient country .Is it in

fact possible , in practice , to enforce copyright protection on the Internet on the basis of an applicable law clause specifying the legislation of the recipient country ?.In the delicate case dealt with here the choices of forum and applicable law largely coincide-the rules of venue and applicable law contain related points of attachment. According to Article 5(3) of the E.U. Judgments Convention , legal proceedings involving damages in tort may thus be instituted " before the court at the place where the damage was inflicted " . This corresponds to lex loci delicti in applicable law.
The Convention does specifically consider the question of venue in connection with distance delicates .One the other hand , in 1976, the European Court of Justice interpreted Article 5(3) to the effect that in the case of distance delicate the plaintiff may choose to institute proceedings in the country of the place of the act or in the country of the place of effect.
In conclusion , brief reference should be made to the matter of who can be said to be liable for infringements of copyright on the Internet .The residence of the responsible subject is not crucial for the choice of forum and applicable law. But , not least in the light of the limited international recognition of judicial decisions, it is of practical importance to determine the matter of liability.
From the point of view of the right holders the inter judicial problems in cyberspace are not so hopeless as they might appear on the face of it:
-the question of applicable law in connection with cross-border Internet transmissions should be resolved by basing the decisions on the laws of the country of reception ; such an arrangement in a distance delicate would rule out evasion in the form of shifting an Internet service to another country without -or with quite modest -copyright protection rules (forum shopping)
-at the same time it is possible to bring such actions before the courts of law of the recipient country (as delicate venue)

-in the country of reception there will often be several parties liable for the transmission : the access provider and, sometimes , the content provider. An injunction may be issued against any of these, and claims for damages can be enforced ; and

-judgments against offenders who are living abroad can to a certain extent be enforced on the basis of international treaties .

A choice of applicable law along these lines, where the legislation of the recipient country is lex causae, does not render the situation impossible for Internet providers:

-the provider may choose to target the Internet service towards users in specific countries orto bloke the access to the homepage for users from specific countries and , thereby , control which country's rules of law are to be complied with; and

-in the case of authorized exploitation , an obvious approach would be for the provider and the right holders to enter into an applicable law and venue agreement to the effect that exploitation shall be governed by the rules and courts of law only in the country of origin . This would imply that the legislation of the recipient country should be considered only in connection with piracy cases.

n. Interpreting fair use in guidelines for distance learning .

In this part focuses on Educational Fair Use Guidelines For Distance Learning , and the major Guidelines act that control (or have controlled) in distance learning the conference on fair use (CONFU)

Focus on CONFU

The purpose of CONFU is to provide guidance on the application of fair use principles by educational institutions , educators ,scholars , and students who wish to digitize copyrighted visual images under fair use rather than by seeking authorization from the copyright owners for non-commercial educational purposes . These Guidelines apply to fair use only in the

context of copyright .

Applicability of the guidelines

The covered uses are (1) live interactive distance learning classes (i.e,a teacher in a live class with all or some of the students at remote locations) and (2) faculty instruction recorded without students present for later transmission. They apply to delivery via satellite , closed circuit television or a secure computer network. They do not permit circumventing ant-copying mechanisms embedded in copyrighted works.

Eligibility

These guidelines apply to nonprofit educational institutions at all levels of instruction whose primary focus is supporting research and instructional activities of educators and students but only to their nonprofit activities .They also apply to government agencies that offer instruction to their employees . Only students officially enrolled for the course at an eligible institution may view the transmission that contains works covered by these guidelines. This may include students enrolled in the course who are currently matriculated at another eligible institution .These guidelines are also applicable to government agency employees who take the course or program offered by the agency as a part of their official duties.

Works performed for instruction

Works performed must be integrated into the course , must be part of systematic instruction and must be directly related and of material assistance to the teaching content of the transmission . The performance may not be for entertainment purposes.

Transmission and reception

Transmission must be over a secure system with technological limitations on access to the class or program such as a PIN number , password , smartcard or other means of identification of the eligible student.

Reception must be in a classroom or other similar place normally devoted to

instruction or any other site where the reception can be controlled by the eligible institution . In all such locations , the institution must utilize technological means to prevent copying of the portion of the class session that contains performance of the copyrighted work.

Limitation

On time use: performance of an entire copyrighted work or a large portion thereof may be transmitted only once for a distance learning course. For subsequent performances, displays or access, permission must be obtained.

Reproduction and access to copies :The institution receiving the transmission may record or copy classes that include the performance of an entire copyrighted work, or a large portion thereof , and retain the recording or copy for up to 15 consecutive class days (i.e., days in which the institution is open for regular institution) for viewing by students enrolled in the course . Access to the recording or copy for such viewing must be in a controlled environment such as a classroom, library or media center, and the institution must prevent copying by students of the portion of the class session that contains the performance of the copyrighted work. If the institution wants to retain the recording or copy of the transmission for a longer period of time , it must obtain permission from the rights holder or delete the portion which contains the performance of the copyrighted work.

Transmitting institution

The transmitting institution may, under the same terms , reproduce and provide access to copies of the transmission containing the performance of a copyrighted work

Multimedia.

If the copyrighted multimedia work was obtained pursuant to a license agreement , the terms of the license apply . If , however , there is no license, the performance of the copyrighted elements of the multimedia works may be transmitted in accordance with the provisions of these guidelines.

Examples of when permission is required:

1. Commercial uses: Any commercial use including the situation where a nonprofit educational institution is conducting courses for a for-profit corporation for a fee such as supervisory training courses or safety training for the corporation's employees.

2. Dissemination of recorded courses: An institution offering instruction via distance learning under these guidelines wants to further disseminate the recordings of the course or portions that contain performance of a copyrighted work.

3 .Un controlled access to classes: An institution {agency }wants to offer a course or program that contains the performance of copyrighted works to non-employees

Analysis

Application fair use in digital distance education limits types of uses :

1. These guidelines apply only to non-profit accredited educational institutions and to non-commercial uses .

2. Works shall be copied only if they are part of the course curriculum .Copies may not be made simply for decoration or for entertainment .

3. Copies shall not be made from any work designed to be consumable in the normal course of study or instruction e .g , workbooks , exercises, standardized test booklets , answer sheets , or similar consumable materials.

4 .The use of copyrighted material shall not substitute for the purchase of books or other materials . The work shall not be used if there is a reasonable likelihood that the instructor would have assigned the work and the students purchased it , had the on-line version been unavailable.

We can see other details :

1. Copies for use on educational web sites may be made only from lawfully acquired materials and must not violate any licensing agreements made to obtain the material .

2. When practical , rather than duplicating a copyrighted work , a web site

should provide a link to an existing , legal , on-line resource. However , a web site must not link to materials which the instructor or designer has reason to believe infringer copyrights .

3. Use caution when downloading materials from the Internet . Instructors and designers should assume that any material found on the Internet is subject to copyright protection .

CONCLUSION

The comprehensive reading provides several recommendations which consist guiding principles for distance learning by fair use .Educators can avoid copyright violations and legally use copyrighted materials if they understand and comply with the fair use guidelines . To balance the rights of copyright owners , educators , students and others , we cannot expect to freely distribute multi-copies of copyrighted works over and over again . Fair use guidelines are a privilege given the general public so that newly found information can be shared quickly without first going to the copyright holder to ask for permission .With new technologies ,knowledge can be shared much more quickly than at the time the Copyright Law was enacted . Without the new legislation However , distance learners will continue to be restricted from taking full advantage of these technologies . Often relevant material has to be eliminated from a distance –education course because we have to wait for the copyright owners permission .By the next time the course is offered , the article may be old news . The student whose lifestyle does not allow an on-campus experience has lost out .we suggest the following guiding principles for use of copyrighted works in the digital environment by fair use:

1.Should apply to resources the institution has legally acquired by fair use.

2. Must be for legitimate , educational activity ; accreditation is one measure of that educational purpose

3.Must be in the course of instruction .

4. Must permit all forms of distance learning .
5. Must not be restricted to the traditional perception of the classroom .
6. Must extend exemption to all classes of works , including audiovisual.
7.Must be permitted to perform and display anything in a distance environment that is permissible to perform and display in a classroom .
8. Institutions must provide reasonable assurances against unlawful uses of copyright works .
9. Copyright owners must not be permitted in a digital environment to use licensing to limit other privileges that apply such as fair use .

In this conclusion , we must appear the Wipo World Academy role in distance learning programs .In the Wipo World Academy distance learning is used as an innovative , on-line teaching technique that utilizes the Internet for teaching and training purposes. Distance learning courses bring teachers specializing in intellectual property issues closer to students and other interested parties in all corners of the world through vital means . This method allows students to follow a range of educational programs in intellectual property at their own pace , in their own space .The development of distance learning course materials is based on the actual demand of different categories of end-users . Target audience definition is the first step in the process of designing distance learning modules .In addition to IP Offices , groups such as lawyers , patent agents, engineers , economists , journalists , and particularly students in university programs can benefit from the Academy tailor-made courses, addressing general and specific IP issues. Finally, It is important for higher education to take the initiative in an effort to achieve the appropriate balance in matters related to the evolving interpretation of the fair use doctrine

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