

11 COPY-RIGHTS AND COPY-WRONG: INTELLECTUAL PROPERTY IN THE CLASSROOM REVISITED

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THAT WAS THEN

Sometime in the mid-1990s, part of my graduate assistantship entailed providing support for teaching assistants introducing the Internet, including Web authoring, into their courses. I walked into class prepared to help an instructor teach students to right-click on images they found online so they could include them in their Web publications. My graduate research at this time had been centering on citation of electronic sources, which led me directly to considerations of authorship—and hence to concerns about intellectual property. Yet, it had never occurred to me that these images *belonged* to someone. After all, they were just *there*. The new technologies that allowed such easy access to information, images, and so much more, also made it very easy to save this information and re-use it. Suddenly, however, I realized I was standing in front of a class of 24 undergraduate students preparing to teach them to... *steal*.

In 1998, *Computers and Composition* published a special issue on intellectual property. Guest editors Laura Gurak and Johndan Johnson-Eilola (1998) saw a distinct need for this focus, arguing that “few of us truly understand copyright, fair use, or the implications that new technologies and new legislation will have on future legal decisions in our classrooms, our Universities, and the World at large” (p. 121). John Logie (1998) agreed: “Whenever composition instructors use computer technology within their classrooms, they raise exponentially the likelihood that the work completed within their classes

will run afoul of current intellectual property laws” (p. 201). *Kairos: A Journal of Rhetoric, Technology, and Pedagogy* also published a special issue on IP issues during the same year, with articles addressing citation and plagiarism, legal issues, and issues surrounding the effect of IP legislation on scholarly publishing. In the special issue, Tyanna K. Herrington (1998) debunked some popular myths about the reach of IP laws and argued that “current law **does** apply to digital communication” (emphasis in original). Thus, she concluded, “the public is granted both constitutional and explicit statutory rights to use copyrighted intellectual property, despite common blanket claims from owners that it is illegal to do so.”

However, based on my experiences in the classroom, I argued then—and now—that without some clear-cut guidelines for students (and for scholars) as to what constitutes educational use and without teaching students to carefully consider the issues raised for both online and print sources, we may find ourselves more and more limited as to what material we are allowed to cite as legislators debate how to protect the economic value of intellectual property.

These two special issues and the conversation on the topic in such venues as the Conference on College Composition and Communication’s (CCCC) Caucus on Intellectual Property, as well as the many questions raised by students, teachers, authors, editors, publishers, and others in those closing years of the last century were, of course, an important point for the 21st-century classroom, as more and more of our work is now at least mediated online and shared prolifically via blogs and wikis, RSS feeds, Facebook, Twitter, or any number of a multitude of other digital means.

The More Things Change...

Much has changed since those days, of course. More and more courses have moved online, often into course-management systems, both commercial and home-grown. Many publishers have developed proprietary content for these spaces or software of their own. Even traditional composition handbooks often incorporate at least some information on conducting online research, producing multimedia projects, or writing for the Web. Students in brick-and-mortar, hybrid, and online classrooms are not only encouraged to include graphics in their print assignments or to write hypertextual documents for Web publication, they are now sometimes tasked with creating mash-ups and “rip-mix-burn” multimedia offerings, with music, video, graphics, and text borrowed or adapted from multiple sources as well. It seems blogs and social-networking sites have sprung up overnight and entered our classrooms in a myriad of ways. Yet, I am struck by how much has remained the same.

...the More They Remain the Same

In 1998, I noted that although “students often use graphics, as well as text, *borrowed* from published sources in their written reports for the classroom” (p. 245; emphasis in original), few textbooks and style guides included “any prescriptions to students regarding the need for acquiring permission” (p. 245) to do so (see Westbrook in this volume for an extended discussion and specific examples). Nearly a decade later, Alexander Reid (2007) noted that “copyright and plagiarism may seem tangential to the issues of new media rhetoric... but their centrality in public discourses regarding composition and technology requires that they be addressed.” That is, he said, because “copyright and plagiarism are the primary cultural domains where new media compositional practices are being defined, they are issues that cannot be ignored” (p. 127). It is still true, however, that few of our textbooks and style guides provide adequate guidelines or discussion of the ramifications of intellectual property legislation on new media compositions we are teaching students to produce beyond discussions of avoiding plagiarism. Even while lawyers and legislators are debating issues that directly affect the work of new media compositionists and the lives of many students—both in and out of the classroom—few of our textbooks offer much in the way of guidance.

The *MLA Style Manual* (2008) does a good job presenting the history of intellectual property law and the intricacies of some of the issues involved, devoting approximately 24 pages to legal issues: a brief history of copyright, an overview of the subject matter it covers, ownership issues (including work-for-hire), and the difference between owning a material object and owning the rights to the content of that object. Also briefly covered are issues of copyright registration, notice and transfer or termination of rights, fair use, permission requests, damages for infringement, and international copyright issues. Although the manual does err on the side of caution, recommending that “authors who plan to use another’s work but doubt whether they have the right to do so should refer the question to copyright counsel” (p. 38), given its intended audience as a “guide to scholarly publishing,” such caution might make sense.

Contrast the extended presentation of copyright issues in the *MLA Style Manual*, however, with that of the *MLA Handbook* (2009), which is much more widely used by teachers and students in composition classrooms (or at least is more widely referenced by authors of textbooks used in such classes). The handbook summarizes all of these issues in one lonely paragraph, basically stipulating only that even if a source is acknowledged, using entire documents or significant portions thereof “is an infringement of copyright law and a legal offense” (p. 60). Most of our handbooks do even less, with some notable

exceptions. For example, *The Brief McGraw-Hill Guide* includes a section on “Using Visuals Responsibly” (Roen, Glau, & Maid, 2008, pp. 822–824). Mike Palmquist’s (2009) *The Bedford Researcher* discusses fair use and permissions and includes a sample letter that students can modify to request permission to use copyrighted material (pp. 92–93). Jim Lester (2010) includes a section on “Seeking Permission to Publish Materials on your Web Site” in the most recent edition of *Writing Research Papers*. However, none of the handbooks and rhetorics I have perused provide sufficient context for students (or teachers) to understand the often complicated conversations about fair use of copyrighted work in the classroom, nor do they explain how to cite multimedia elements not included in a works cited or references list.

SHIFT HAPPENS

According to Tom Reedy (1998), “some of the most successful paradigm shifts have occurred by building on previous knowledge.” Indeed, as noted elsewhere in this volume, the stated purpose of copyright legislation is to allow for just this kind of knowledge building. Unfortunately, as TyAnna Herrington (1998) argued, “misperceptions and inaccuracies regarding intellectual property law are both extreme and ubiquitous in this age of digital communication, when ease of access, copying, and dissemination of copyrighted materials has created a backlash of fear against public access to information.” Nowhere was this more apparent than in the brouhaha surrounding Napster and its ilk, when the RIAA thought it desirable to sue even grandparents and 12-year-olds. Unfortunately, many students still seem to believe that material must be formally registered with the U.S. Copyright Office to be protected, something that has not been required for more than 30 years now. Moreover, many of my students believe that sans the once-required visual notification of copyright—the symbol © or the word or abbreviation for copyright (*copy.*, *copyr.*, *copr.*, or even just *c.*)—a work is not protected, which is, of course, just plain wrong. Thus, students tell me, they believe that most material on the Internet is not copyrighted, since most of the material they encounter is not “marked.” And, of course, music, they argue, *should* be free (their justification for this is that performers, they believe, make their money from concerts and not CD sales). YouTube has now made it exceptionally easy to embed videos, with single-click links to post to social-networking sites, a “share” link for emailing videos, and source code to copy and paste into blogs or webpages. Because most people do not understand—or indeed care—that the videos are in fact linked, not downloaded and re-published, it’s no wonder they are confused.

In the midst of this confusion, it is requisite that we consider the ramifications of intellectual property law and its effects on new media composing beyond issues of access, citation, and plagiarism. Beyond the confusion (or perhaps at least partly as a result of it) are threats to the very principles that copyright was designed to protect in the first place, as included in the U.S. Constitution: “To promote the progress of science and useful arts, by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries” (U.S. Const., art. 1, sec. 8., cl. 8). That is, not merely access to information (threatened by the ever-lengthening term of copyright protection and the subsequent dwindling of the public domain), but also use in other works (derivative or otherwise) is now being threatened. How does one “quote” from a picture or musical score, for example? If we teach students to re-purpose a copyrighted musical work as a soundtrack for a YouTube video or mash-up, will students be at risk of being sued for copyright violation? Existing fair use policies just do not adequately address new media configurations, and most books and Web sites discussing these issues are addressed to teachers and their use of materials in the classroom.

TEACH

Teach: The Movie?

The Technology, Education, and Copyright Harmonization Act of 2001 (S. 487), fondly known as the TEACH Act, was signed into law in 2002. It provides a set of guidelines for educational use of certain copyrighted material, specifically “performances or displays for educational uses” (S. 487 ES). Conditions for use required under the TEACH Act include the following:

- Use is limited to works that are *performed* (such as reading a play or showing a video) or *displayed* (such as a digital version of a map or a painting) during class activities. The TEACH Act does not apply to materials for students’ independent use and retention, such as textbooks or articles from journals.
- The materials to be used cannot include those primarily marketed for the purposes of distance education (i.e., an electronic textbook or a multimedia tutorial).
- Use of materials must occur “under the actual supervision of an instructor”.
- Materials must be used “as an integral part of a class session.”
- Use must occur as a “regular part of the systematic mediated instructional activities.”

- Students must be informed that the materials they access are protected by copyright. (Reyman, 2006, pp. 33–34)

Further, it remains incumbent on faculty and/or administrators to ensure that the following restrictions are adhered to:

- limiting access to material to only those students enrolled in the class;
- ensuring that digital versions are created from analog works only if a digital version of the work is not already available;
- employing technological measures to “reasonably prevent” retention of the work “for longer than the class session”;
- developing copyright policies on the educational use of materials; and
- providing informational resources for faculty, students, and staff that “accurately describe, and promote compliance with, the laws of the United States relating to copyright.” (Reyman, 2006, p. 35)

Much of this use is already allowed under fair use guidelines, and this Act in no way is meant to limit such use. However, although the TEACH Act may make some educators and administrators feel a bit more comfortable including copyrighted work in their online or face-to-face classes, it might also serve to stifle uses that many would argue fall under the doctrine of fair use even if they are not stipulated therein. The Emerging Technology Center at Georgia Southern University, for example, helps faculty digitize and stream media for the classroom (face-to-face or online), specifically excludes “fented, purchased, or borrowed media with copyright or DRM protection,” and warns that “all media to be streamed must meet with the GSU Campus Attorney’s approval for copyright restrictions” (Georgia Southern University).

However, these guidelines are not sufficient to help teach students what is proper for *them* to use in our classrooms. That is, as “The Code of Best Practices in Fair Use for Media Literacy Education” (Center for Social Media, 2008) noted, we need to

explore with students the distinction between material that should be licensed, material that is in the public domain or otherwise openly available, and copyrighted material that is subject to fair use. The ethical obligation to provide proper attribution also should be examined. And students should be encouraged to understand how their distribution of a work raises other ethical and social issues, including the privacy of the subjects involved in the media production. (p. 14)

Teach: The Verb?

In 1998, I called for clear-cut guidelines for the classroom. Although this may seem to fly in the face of my (and others') understanding of fair use, I still contend that such guidelines can be a way of helping students enter the conversation, especially because students' digital lives are so intimately involved in the outcomes of these conversations.

The distinctions between educational use of material for teaching and student use of copyrighted media are not inconsequential ones, but thus far, there is little direction for students. And, of course, students need to be taught not only what and how they can use information in the classroom, but how such work may (or may not) play out in their lives beyond it. Students really *do* want to know, but many faculty themselves do not understand copyright and fair use, complicating the teaching environment still further (see Nguyen in this volume for research findings on teacher and student perspectives). This fact was recently brought home during the 2008 Georgia Conference on Information Literacy. Carol Simpson's keynote address presented some fairly basic information about copyright and fair use. Even so, much of the information she presented was new to her audience, consisting of librarians, media specialists, and instructors from kindergarten through college levels. A lawsuit filed on behalf of Oxford University Press, Cambridge University Press, and Sage Publications speaks to this lack of knowledge: The suit alleged that Georgia State University "systematically facilitated access to a significant volume of copyrighted works online without paying the proper licensing fees or even seeking to do so" (Guess, 2008). It is likely that faculty believed they were well within the confines of educational fair use, even though we are now in an era when the very definition of "classroom" is up for grabs. Truthfully, I have heard numerous (and often fallacious) arguments from otherwise intelligent faculty who believe that almost anything goes in the name of "educational" use—from re-recording movies to show in the classroom to including musical sound tracks in YouTube videos to capturing screen shots from webpages to include in conference presentation slideshows or in published articles. And, of course, many of the editors of our learned journals are just as confused as the rest of us. Notably, commercial publishers—those responsible for our textbooks—are much more knowledgeable in this realm; however, because textbook authors are responsible for any unlawful use of copyrighted material, sometimes even these works allow a few questionable bits or bytes to slip through.

Our university attorneys are sometimes hesitant to address these issues as well, often preferring to counsel faculty to seek permission (and pay royalties)

for use of copyrighted material that would seem to clearly fall within the realm of fair use. And, of course, in this post-Napster era, it is difficult for any of us to understand what we can and cannot use without culpability. Nonetheless, as I argued previously,

suggestions that authors request permission to quote portions of online sources that, in print, would fall within fair-use guidelines (such as portions of logs published online, publicly disseminated e-mail messages, and public meetings in synchronous communication sites) can only lend force to those who would eliminate the doctrine of fair use altogether and make it difficult or impossible to carry on the work of scholars—inside or outside the classroom. (Walker, 1998, p. 246)

Heidi McKee (2008) agreed, stating that “if as instructors and researchers, we adhere to a strict acceptance of copyright maximalists’ expectations for copyright, we could be contributing to the erosion of the Fair Use *Doctrine*” (p. 118; italics in original). As Lawrence Lessig (2004) argued in *Free Culture*, “for the first time in our tradition, the ordinary ways in which individuals create and share culture fall within the reach of the regulation of the law, which has expanded to draw within its control a vast amount of culture and creativity that it never reached before” (p. 8). Unfortunately, relying solely on Creative Commons licensing, CopyLeft arguments, or whatever other options we may turn to, or arguing taking the stance that “information wants to be free”¹ is also playing into this same dichotomy.

Although it is important to protect our right to fair use of material, at the same time we must ensure that we protect students as they go out into the workplace. That is, if we believe the use is fair, then we *should* go ahead and use it, regardless of what the legal pundits argue. On the other hand, we also need to be careful that, in so doing, we are not modeling behavior that puts students at risk of legal retribution. By failing to teach students about adherence to the law—even though I agree we also need to teach them why the law may need to change in light of changing technologies and cultures—we may be placing ourselves as well as students in an untenable position. As McKee (2008) argued, her own “failure to discuss copyright with students was inappropriate as a teacher because it was not helping to prepare students for considering the complicated issues of copyright” (p. 118). Furthermore, these same students may soon be in positions to affect these laws (for good or ill), so we should make sure they are privy to these important conversations.

WHERE DO WE GO FROM HERE?

As educators in a digital age, we have a responsibility to students, to our field, to our institutions, and to the public at large to continually upgrade our knowledge and skills in the areas in which we teach. Today, for composition teachers, that may require a considerable investment of time in learning how to use new technologies or at least in learning about the impact of new technologies on what it means to compose. And, of course, we need to be aware of the conversations taking place regarding issues of copyright and intellectual property law as these conversations impact our use as well as student uses within (or without) the classroom. Those of you reading this collection are in the forefront, then, as, admittedly, many of our institutions do not adequately support and reward such professional development efforts—neither by awarding sufficient time and money, nor by adequate recognition of such work at tenure-and-promotion time. However, we can no longer pretend that classrooms are a “safe space”—a haven into which these issues do not reach. We can no longer continue to teach as we always have.

Teach All Students the Basics of Copyright

Beginning with first-year students and, indeed, in all of our classes, we need to teach students the basics of copyright and intellectual property law. In 1998, I presented the following guidelines for the classroom. Primarily targeting use of online resources, I developed this page in response to the dearth of materials available to help introduce students in the composition classroom to this complex topic. Revised in 2007, this list is still far from complete, but it is nonetheless a useful starting point for conversations with students (or others) on the intricacies of intellectual property laws and the use of multimedia in student compositions. On the webpage on which this material is published, I include a brief history of copyright and an admittedly all-too-brief explanation of what copyright was designed to protect, (mostly as a way of introducing students to the conversation), before offering students the following guidelines to consider for their use of the intellectual property of others:

1. *Follow guidelines already established for published (i.e., print) sources, if possible.* For print, generally the polite convention has been that use of 10% or less of a work constitutes fair use.² For online sources, we should continue to abide by this same guideline. We should also give as much information as possible to allow readers to access the original source. For projects that will be used only in the classroom,

you may not need to actually obtain permissions for use, however, you should be aware of the steps necessary to do so and should try to locate the information necessary. For work to be distributed outside the classroom (for instance, to be published on the World Wide Web), it is imperative you at least make an attempt to acquire permission.

2. *Point to (i.e., link to) images, audio, and video files rather than downloading them, if possible.* Some sites offer graphic images or other multimedia files to users at no charge and may specifically request that users download them; requests such as these should be honored. However, graphics, audio, or video files should not be downloaded without permission. Users may instead point to images and other types of files rather than downloading them. Of course, courtesy may require that users request permission even to link to an image or file, because this may entail additional traffic on the file server where the file is stored. Additionally, pointing to such files may cause problems as files may move or change without notice or routes between sites may become jammed. However, without specific permission to download files and publish them on the user's file server, doing so constitutes a clear violation of copyright law.
3. *Always cite sources carefully, giving as much information as possible to allow the user to relocate the source.* In addition to citing the source of text, any graphics, audio, or video files included should include proper citation as well. The elements of citation for electronic sources should include the name of the person responsible (i.e., the author, creator, or maintainer of the site); the title of the individual work and the title of any larger body of work of which it may be a part; the date of publication or creation; the protocol and address³ along with any directories or commands necessary to access the work; and the date of access. It may often take a bit of detective work to locate important elements of citation for Web files, but it is important to try and find as much information as possible. Where some of the information is missing, include as much information as possible.
4. *If in doubt, ask.* If it is unclear whether or not a given use is permitted, ask the owner or author of the site, if possible, explaining the nature of the intended use and noting the portion or portions of the work to be included. If unable to locate information, include as much information as possible along with, perhaps, a note explaining that the work is being

used without permission of the owner. If asked by a copyright owner to remove material, be prepared to do so promptly. (Walker, 2007)

Of course, as Dànielle Nicole DeVoss and Suzanne Webb (2008) argued,

if we teach students to ask for permission to fairly use media work in their educational endeavors, we risk pushing them into a wall—a wall that they likely will not be able to climb and conquer within the 15-week semesters in which we typically teach. It is phenomenally difficult—and deliberately so—to find out who actually holds the copyright to a work. (p. 95)

Susan M. Bielstein (2006) agreed, noting that “it is becoming harder and harder and impossibly expensive to include illustrations in books” (p. 9). Thus, Bielstein eventually concluded, “if you don’t need illustrations to make a point, don’t use them” (p. 101). I provide students with information about how to request permission, as well as links from my webpage to an *eHow* article, “How to Get Permission to Use Copyrighted Material” and links to sample copyright permission letters, but most students prefer to avoid the issue, either by creating images, searching the commons for free media, or by circumventing the problem entirely and simply including “stolen from” or “used without permission” in citations. Once again, I am teaching students to steal.

Unfortunately, too, many of the uses students make of multimedia in their compositions are not adequately addressed by our style manuals. Although they do present guidelines for a variety of multimedia cited in a “paper,” style manuals do not usually address how to cite such files when they are included in a work without being referenced in the text. In *The Columbia Guide to Online Style* (2006), an alternative to MLA and APA and other documentation styles for citation of electronic and electronically accessed work, Todd Taylor and I (2006) argued that “it is usually not necessary to include multimedia files in the list of works cited unless you are referring to them in your text. That is, if graphics or other types of multimedia files are used merely for decorative purposes, then the source information in the label or credits is sufficient” (pp. 72-73). Students need to know how to include such a source line or credits page for images or other multimedia files they include in their papers, their mash-ups, or whatever form their compositions may take. Jim Kalmbach’s (2003) “Giving Credit for Use of Images or Other Material” is still one of the best sites I have found for quick examples. I have also created a tutorial for students on “Citing Sources in Presentations,” which demonstrates uses of material in

non-traditional projects. Of course, citing the source of a graphic image in a paper or webpage project or even in an electronic presentation may be quite straightforward, but demonstrating how to credit audio or video files in other types of multimedia work may be a bit more complex. Nonetheless, here, too, we need to do much more than we do currently. Most of our style manuals and textbooks are focused on helping students avoid plagiarism. Thus, although these resources may stipulate that authors include the source of information in a label for tables, images, and graphics, they provide little if any information that addresses the uses many students are now making of multimedia files in their work.

Teach Other Faculty about Copyright

I believe it is incumbent on those actively involved in considering these issues to help other faculty understand them so that they, in turn, can help students. We need to start discussions or participate in ones already underway about the issues. We need to provide lists of resources, attend conference presentations, and invite people from other departments to participate in the discussions. As “The Code of Best Practices in Fair Use for Media Literacy Education” (Center for Social Media, 2008) argued,

this is an area in which educators themselves should be leaders rather than followers More generally, educators should share their knowledge of fair use rights with library and media specialists, technology specialists, and other school leaders to assure that their fair use rights are put into institutional practice. (p. 8)

We need to do what we can to present opportunities for discussion about copyright to faculty and administrators at our institutions. We can recommend bringing people to our campuses or conferences to speak on these topics; we can share readings; and we can raise questions. For example, my institution, like so many, is encouraging faculty to teach more courses online (in our case, that usually means through a course-management system). Our Emerging Technology Center (ETC) works with faculty to develop course material, but, as I mentioned earlier, specifically excludes streaming copyrighted movies, even though the TEACH Act would seem to allow this use. When I mentioned this to ETC staff, however, they were not impressed; they have a rule, and they are sticking to it. But we can (and should) broach this with our university counsel to get that rule changed. Faculty might also want to question how

intellectual property laws might affect ownership of their teaching materials when they use university resources to develop them and make them available in their online courses (see Amidon in this volume for an extended discussion of work-for-hire).

Graduate student work is also at stake. The College of Graduate Studies at Georgia Southern University, for example, no longer accepts paper theses and dissertations; instead, we have moved to electronic theses and dissertations. In the instructions, students are warned:

It is the student's responsibility to ensure that the copyrights of documents used in the preparation of the thesis or dissertation are protected and adequately cited, and that all necessary permissions and/or copyright releases are obtained from copyright holders. (Georgia Southern University, 2008, p. 3)

Students must include signed copyright permission forms for any copyrighted materials they may include. But few of our courses actually instruct students in how to do any of this; therefore, it often falls on the staff in the College of Graduate Studies to instruct students and answer their questions, usually after the thesis or dissertation has been accepted and approved by the student's committee. And of course, as my university, like so many others, moves toward developing an e-portfolio mandate for both faculty and students, we need to make sure that we understand the possible consequences of including copyrighted material—our own or that of others.

Keep Abreast of the Conversations

Finally, it is incumbent upon all of us to continue following the conversations that affect our professional (and perhaps personal) lives in so many ways. We need to be aware of the ramifications of the continued attacks on fair use and the public domain; of asking for permission where, perhaps, we should not; and of allowing those with a vested interest in protecting intellectual property *qua* property to make the decisions for us. That is, do we really want the Recording Industry Association of America (which insists on filing suits for theft of property that may or may not be “real”), Disney (which refuses to allow Mickey Mouse to age gracefully and retire to the public domain), and McDonald's Corporation (for which the “Golden Arches” are sacrosanct) to determine what we can use and how we can use it?

Of course, it is equally important that, as scholars and educators, we ensure the ethical and fair use of the work of others by employing adequate citations

and credits, and that we respect the moral and ethical values that we purport to hold dear. And, of course, we need to remember that

the World Wide Web is an international publishing space. As such, many of the images, texts, and other files may fall under the copyright laws of other nations, whose attitude toward ownership of intellectual property may be far different from our own. Thus, a key word in our own consideration of intellectual property should be *respect*, including respect for the moral and ethical as well as economic rights of authors, creators, and publishers. (Walker, 2007)

Admittedly, in some countries, those “moral and ethical” rights sometimes work against criticisms of the work of others, but, then, the United States’ focus on economic rights may soon mitigate any and all use of copyrighted materials—to the point that the Constitutional objective of promoting progress becomes, if not an anachronism, at least an idyllic dream. Indeed, followed to its apogee, we may find ourselves fulfilling Theodor Nelson’s 1960 vision of the “docuverse” (see Nelson, 2003), wherein “‘published’ materials are available to anyone, yielding a royalty to the owners” (p. 460), creating, in effect, the Internet as a “vending machine” of information.

THIS IS NOW

Now it is nearing the end of the first decade of the 21st century, and I am in a tenured faculty position, chairing my department’s Teaching, Technology, and Writing Committee. As such, I am often asked by other faculty to help them with “techie” stuff. So when a colleague showed me her public wiki page with articles she had printed, scanned, and posted for student access, proud of her newly acquired digital skills, I took a deep breath. The articles were all freely available on the Internet, she said; like the images I had taught students how to “steal” almost 15 years ago, they were just *there*.

I could have gone into my rant about how some sites that make information available for free sell advertising on their sites and charge based on the number of page hits. So when she posts the information to her site, that means traffic might be directed to her site to read the information rather than to the original site, hence potentially costing the copyright holder and/or publisher money.

I could have gone into my rant about copyright being the right to make copies. By making copies herself, and “publishing” those copies (i.e., by mak-

ing them available to the public on her webpage), without asking permission of the copyright owner and barring any possibly transformative or “value-added” use, she is breaking the law.

Or I could have gone into my rant about fair use, Creative Commons licensing, copyleft, digital civil disobedience, or any of the other standard “rants” I have on hand (or can come up with).

By now, of course, my colleague’s eyes would have glazed over. She just wants to know what to *do*—and she wants it to be easy, as it was in the days only a few years ago when she would have photocopied these articles and handed them out to her students in class without a second thought.

In this case, there are two “easy” answers: 1) simply link to the articles, or 2) ask our library staff to make the information available through their online course reserve service—and let *them* worry about copyright issues. Because access to the online course reserve materials is limited to patrons, such copying will often fall under fair use.⁴

But as I walked away, I realized I *wanted* to rant. I *needed* to rant. I wanted my colleague to understand the issues, and, in turn, I wanted her to help students understand. Later, I slip a copy of the “The Code of Best Practices in Fair Use for Media Literacy Education” onto the mail room counter, hoping someone might pick it up. I continue to offer workshops and brown bag discussions for faculty in my department, and I am preparing to teach a course on intellectual property issues for undergraduate writing majors as well as for students from a variety of programs who might be interested. And, of course, I continue to try to keep up with and understand the proliferating conversations in this area myself, admittedly a daunting task. In the meantime, students will continue to make use of “stolen” work if they so choose, so long as they make it clear to me they understand that what they are doing is defined by many as stealing. That way, I am at least protecting myself (the students’ citations “prove” that I have taught them that what they are doing might be in violation of copyright law), even if I allow students to take these risks.

In other words, the more things have changed, the more they remain the same. Thus, although I do provide students with guidelines to follow, I hope that I provide students with an entry into the conversations about the legal and ethical ramifications of their choices as well—both their choices to adhere to the guidelines as well as their choices not to. At the end of the 20th century, I taught students to steal, without realizing it. So, now, at the end of the first decade of the 21st century, I am teaching students that, as long as they cite their source, “stealing” might sometimes be the ethical thing to do.

NOTES

1. According to Wikipedia, “the expression is first recorded as pronounced by Stewart Brand at the first Hackers’ Conference in 1984.” Although probably not Brand’s original intent, the expression has come to be used to argue for the “right” to download (music, software, text) without regard to copyright or ownership. As Wikipedia notes: “Under this line of thinking, hackers, crackers, and phreakers are liberators of information which is being held hostage by agents demanding money for its release. Other participants in this network include Cypherpunks who educate people to use public-key cryptography to protect the privacy of their messages from corporate or governmental snooping and programmers who write free software and open source code.”

2. Fair use guidelines do *not* actually stipulate a 10% rule, although many people seem to think this is a safe amount; instead, fair use is predicated upon a four-factor consideration (see Galin and Westbrook, this volume, for a detailed discussion of such analysis).

3. Unfortunately, the third edition of the *MLA Style Manual and Guide to Scholarly Publishing* (2008) now recommends omitting the URL for online sources: “Inclusion of URLs has proved to have limited value,” they argued. Instead, they contended, that “readers are now more likely to find resources on the Web by searching for titles and authors’ names than by typing URLs” (p. 212). Although I believe this “google-ization” of research documentation is a dangerous practice (see my “MLA Rant” at <http://mywabbit.blogspot.com/2008/09/mla-rant.html>), the seventh edition of the *MLA Handbook* (and thus most of our composition handbooks) now follows suit.

4. As I am putting the finishing touches to this article, the University System of Georgia has announced a new copyright policy, putting the onus of determining fair use on individual faculty members for electronic reserves or online course materials. Faculty are asked to complete a “checklist for each ‘fair use’ of a copyrighted work” to be submitted along with the material, with a copy to be retained by the faculty member “to establish a ‘reasonable and good faith’ attempt at applying fair use, should any dispute regarding such use arise” (University of Southern Georgia Copyright Policy).

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