19 THE ROLE OF AUTHORSHIP IN THE PRACTICE AND TEACHING OF TECHNICAL COMMUNICATION

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Writers working as technical communicators, whose primary role is to communicate complex technical information to the audiences who need it, face unique challenges in their roles as authors. Technical communicator concerns about issues of authorship and textual ownership derive from their dual roles as creators of works and users of others' works. Therefore, their questions tend to be either "do I own this work?" or "can I use this work that someone else has authored?" Often the reason for asking such questions is to avoid claims of copyright infringement. Writers want to establish ownership of works that they've composed so that they know how they might reuse them, and they want to establish their rights to incorporate the work of others into their own projects when it is useful. Conscientious writers seek to establish who owns a work (either their own or another's) so that they can proceed legally and ethically. Often technical communicators cannot easily determine ownership themselves, and the question soon becomes "should I ask my legal department about this?" Technical communicators who work within a corporate setting can rely on legal counsel for sound advice on whether or not they, as employees of a given organization, are authorized to claim ownership to or make use of copyrighted material. This advice aims to inform writers whether a particular activity is legal and to allow them to proceed without concern for liability. A question that technical communicators may not ask as frequently, however, is *why* the answers to questions about intellectual property are not always obvious. Why aren't the lines between who owns what—between legal and illegal, ethical and unethical activity—clearly demarcated for writers working as technical communicators?

Instructors who teach technical communication at both the undergraduate and graduate levels have a responsibility to inform students about potential legal constraints related to what they can claim ownership of and what they can make use of in their writing on the job. By educating future technical communicators on what copyright law says regarding ownership of works, instructors can help students participate in future workplace discussions that seek to answer the question "is this legal?" Technical communication instructors should discuss issues of textual ownership with students both in terms of legal authorship (or what author status allows legally) and rhetorical authorship (or what author status allows regarding agency and status within the profession). My treatment of technical communication authorship is limited to a corporate model of the writer, or the technical communicator whose job title might be "technical writer" or "content specialist," but not necessarily all writers who may communicate specialized information to specific audiences on the job who also do not work as technical communicators within a corporate environment (e.g., lawyers, researchers, freelancers).

In this chapter, I address the tension between industry models for legal ownership of intellectual property as supported through copyright law and the concept of authorship—a concept that informs technical communicators' understandings of textual ownership, as discussed in technical communication scholarship. I begin by describing legal conceptions of authorship that apply to industry professionals working as technical communicators in corporate environments. I then move to contrast that model with how authorship has been conceptualized among technical communication researchers and practitioners within the existing literature in the field. I close by arguing that instructors should address questions of legality and related implications. In doing so, instructors can more fully acknowledge the complexity of making legal and ethical decisions about textual ownership in the workplace. The aims of such an approach are to support ethical writing practices as well as to aid future technical communicators in establishing greater autonomy and increased professional status by becoming more active participants in discussions about intellectual property in their work environments.

THE PERPLEXING CIRCUMSTANCES OF AUTHORSHIP

The legal standards for ownership and use of copyrighted materials are not always in line with writers' understandings of textual ownership and use of others' materials as formed through their academic experiences. Technical communicators, particularly those who have recently moved from the academic to

the corporate world, are faced with perplexing circumstances. For instance, while technical writers and editors are held accountable for composing innovative, usable, and compelling documents in the workplace, they often do not legally assume authorship of that work; instead, works are usually owned by the corporation they work for under the work-for-hire doctrine of copyright law. Another example is the way in which many technical communicators rely on existing materials in their writing, including templates and boilerplates, but also existing content composed by other writers, which runs counter to the concepts of originality and plagiarism learned in academic contexts.

Because of this unique role of the technical communicator as *non*author, situations in which questions about copyright and ownership arise are common for technical communicators. These situations often involve more than one writer and several variables that affect textual ownership. Consider these two cases:

> **Case #1:** A technical communicator has recently joined a team responsible for writing user documentation to explain to customers how to install, maintain, and repair telecommunications equipment. She was asked to review existing documentation for a quality assessment and to revise the documentation as needed. As part of the assessment, she discovered that parts of the documentation were identical to that found in user manuals that you could access freely online from a well-known, industry-leading competitor's public Web site. Further, a search on related topics revealed that other material in the documentation was copied from public online forums where users posed questions and other users responded with solutions. How should this technical communicator proceed with revising the documentation at her company?

> **Case#2:** A technical communicator who works for a small software company created, largely independently, the user manuals for a new software program. A larger corporation then purchased third-party rights to use the software program in a product of its own. As part of the program that was purchased, the corporation acquired electronic copies of the user manuals. Because the product development and customization project is on a fast track and because the user manuals are high quality, the technical publications department at the corporation determined that if they use the software company's

existing manuals, they can drastically reduce their document development time. The technical publications department is not sure whether the corporation has the rights to not only the software product, but also the user guides.

In each of these cases, legal counsel, if available, would be able to assess the situation and arrive at a recommended course of action, often with the primary goal of mitigating risk for the corporation. Because of the variables involved (number of writers, different organizations involved, varying modes of accessing materials), the situations become too complex for most writers to analyze and arrive at a comfortable decision independently. However, technical communicators have much at stake in assigning authorship. Issues of textual ownership have great bearing on their work, determining not only how they will proceed on a given project but also the recognized value of their contributions within a workplace environment. Therefore, technical communicators should be informed enough to become active participants in the decision-making process, either collaborating with legal counsel or collaborating with their team and others involved to arrive at a satisfactory model for textual ownership. Such participation requires that technical communicators understand what the law says and also the implications of models of textual ownership for their roles and status within the workplace. With this understanding, they can more confidently and soundly respond to difficult intellectual property related situations.

LEGAL NON(AUTHORSHIP) FOR TECHNICAL COMMUNICATORS

As evidenced in other chapters in this collection, the field of rhetoric and composition has addressed concepts and troubles related to authorship at some length in its scholarship. Technical communication scholars, however, have engaged in rather dispersed discussions of the concept and often borrow from the growing body of scholarship on intellectual property studies among compositionists. While it is outside the scope of this chapter to summarize the scholarship on authorship in rhetoric and composition, one particularly useful source for this discussion is Rebecca Moore Howard's (1999) *Standing in the Shadow of Giants*, which offers an argument for rethinking modern conceptions of authorship that have implications for teaching writing. In the opening chapters, Howard offers a review of scholarship on the history of the concept of authorship. Based on this history, she asserted that notions of authorship are

"culture-specific, arising not as a description of foundational facts about writing, but as cultural arbitraries that support larger social trends" (p. 76). Further, and most useful here, Howard described what she called "properties" of contemporary authorship that writing students and instructors commonly rely on. Although she focused largely on plagiarism and authorship in terms of its association with morality among composition instructors and students, the other three properties she identified—autonomy, proprietorship, and originality—are more pertinent to a discussion of authorship in technical communication. Howard noted that modern conceptions of authorship posit its *autonomy* (composing individually), *proprietorship* (a "natural right," in the Lockean sense, to own what one has produced through writing), and *originality* (the notion that writing comes from inner genius; pp. 76-85).

Many written texts—and particularly those prepared in academic settings—are valued among instructors and other readers for these properties. As Howard (1999) recognized, we need only look to discussions of plagiarism in the writing classroom or university plagiarism policies to see how prevalent these assumptions are. Howard's description of the properties of authorship creates an appropriate springboard for a discussion about authorship and technical communication: As she noted, a disparity exists between composition student "patchwriting" practices and these properties of authorship. Technical communication scholars might note the differences between technical communication student assumptions about ownership of texts and the properties of authorship that apply in workplace settings. Authorship as applied in technical communicator professional practices is a far cry from the concept of authorship purported in the academic environment. In a professional context, technical communication is rarely considered an *individualized* activity; it is not something to which we assign *ownership* by an individual writer; and it typically does not produce something valued most for its *originality*. Although the treatment of authorship in most university writing curricula (both composition and technical communication) typically continues to rely on these properties, such discussions do not reflect many of the actual practices and laws governing industry professionals working as technical communicators in corporate settings.

Technical communicators often fail to achieve author status, as understood in academic settings, due in part to the types of composing activities they regularly engage in; these activities may not resemble the activity of "authoring" as recognized in academic contexts. Namely, technical communicator activities involve collaborating with other writers, editors, or subject-matter experts as opposed to working autonomously, or reworking, building on, or reusing existing text rather than producing something entirely original. Consider these

common writing tasks that may lead some to question the status of the technical communicator working in corporate environments as autonomous, proprietary, and originary:

- collaborative writing: composing with others writers, editors, or subject-matter experts;
- repurposing: taking an existing document—perhaps written by another author—designed for one purpose, form, or audience and re-working it for a different purpose, form, or audience;
- single-sourcing: "creating multiple deliverables from one unmodified source document," perhaps written by another author (Brierly, 2002, p. 15);
- using boilerplates and templates;
- corporate authorship: composing works not signed by a writer or, rather, works that are signed by a representative not the writer.

In some instances, the large number of contributors can make it difficult to determine who all of the authors of a given text are. For instance, research articles in scientific journals, which technical writers and editors often help to compose and edit, routinely have large numbers of contributors. Due to the difficulties posed when assigning textual ownership among a large group of contributors, editorial boards governing these publications have developed authorship criteria for bylines in journals. The International Committee of Medical Journal Editors (ICMJE; 2008), for instance, published criteria for determining authorship status in biomedical journals based on:

1. substantial contributions to conception and design, acquisition of data, or analysis and interpretation of data;

2. drafts of the article or critical revisions for important intellectual content; and

3. final approval of the version to be published.

Such guidelines suggest that identifying authors of a written work—where there is much collaboration in the design and completion of research, the analysis of data, and the writing and editing of the article—is not an easy task. To accommodate a large group of contributors, other forms of acknowledging individual work or assigning responsibility for content include titles such as "guarantor," "clinical investigator," "participating investigator." Interestingly, "technical writer," "medical writer," and "editor" are not listed as examples of contributors deserving authorship credit.

Legal models for authorship in corporate settings likewise do not follow traditional, academic models of original, autonomous, and proprietary authorship. The work-for-hire doctrine of copyright law and contractual agreements negotiated between writers and the companies they work for may leave individual writers and editors with nonauthorship status—with little or no ownership rights over the works they compose. The work-for-hire doctrine of copyright law (see Amidon, this volume) governs the default assignment of copyright in an employee–employer relationship. Work-for-hire applies in two circumstances: when a technical communicator has prepared a work as part of his or her employment and when a technical communicator has been commissioned by an employer to complete a work and both parties have agreed via contract that the work should be considered a work for hire. This means that the work created by a technical communicator within the scope of his or her employment becomes the sole property of the employer, even if he or she is no longer employed there. This also means that if a technical communicator is not employed permanently by the company and is working on a short-term contract, he or she still may relinquish rights to the work if agreed on through a contract with the employer. (For more on the work-for-hire doctrine, how it affects technical communicators, and its treatment in case law, see Herrington, 1999.)

Under these conditions, which are typical for technical communicators working in professional settings, writers do not assume legal authorship of a work that they compose, even when the work is a solitary and original creation, that is, even if it does not rely on existing content and is carried out individually. In some cases, such as writing or editing for an ICMJE publication, the subject-matter experts assume ownership of the written work. And, in other cases, the corporation or a named representative assumes authorship. This system of nonauthorship may prevent technical communicators from receiving recognition or credit for their work. Additionally, it may prevent them from retaining important rights—including opportunities for future financial gain from the work—as it can preclude writers from reusing or repurposing their work or from marketing their work to other audiences. These limitations are particularly restrictive when a writer intends to reuse work prepared for another employer, even if he or she no longer works for that employer. However, this system for establishing legal nonauthorship may, in fact, have some benefit for technical writers and editors, namely protecting them from liability for unintended consequences caused by misuse of technical communication products or inaccuracies presented in materials they have written or edited.

Legal guidelines for product liability include responsibilities such as "duty to warn and instruct." U.S. liability law specifies that companies must include warnings about potential dangers and misuses associated with a product and

that these warnings not only be available to users but that they also be under-standable. Often such warnings are distributed or reprinted in product doc-umentation written by technical communicators who also often work as an intermediary between a company and the public. In this case, they may find themselves responsible, in part, for ensuring that their company avoids costly liability lawsuits; however, technical communicators are rarely legal experts (nor should they be expected to be). Management or any available legal counsel has the authority and knowledge to advise technical communicators on their responsibilities regarding product liability, a particularly complex area of the law; and having done so, a company may also assume liability if a legal claim arises, shielding a writer-for-hire from liability. Although the legal concept of liability may or may not directly relate to legal authorship, the common model of corporate authorship adopted in workplace settings suggests a certain level of protection for technical writers from sole responsibility. (For more in-depth discussion of liability law and the responsibilities of technical communicators, see Heylar, 1992; Manning, 1997; and Smith, 1990.)

Another form of protection for technical communicators with nonauthor-ship status is "guarantorship" of the accuracy and integrity of the content. The role of a "guarantor" is most commonly seen in medical writing, where tech-nical writers and editors often compose articles that present content prepared by medical professionals and researchers. Medical writers are not identified as authors of the works they compose, and they are also often exempt from being identified as "guarantors" of the final product. Guarantors of a medical article, according to the ICMJE (2008) guidelines, are the "persons who take responsibility for the integrity of the work as a whole, from inception to pub-lished article." The names of any guarantors of an article are published, and these individuals "guarantee" the accuracy of information, taking responsibil-ity for any safety issues that may arise based on the content. By not assuming an authorship status in the publication, technical communicators do not claim responsibility for the integrity of the material presented.

By assuming legal authorship, corporations or subject-matter experts may assume responsibility for the text in three senses: credit for contributions in terms of resources and effort devoted to producing the work; liability for product safety; and guarantorship for the accuracy or integrity of the con-tent. While technical communicators desire credit for their contributions, they often benefit from protection against liability and guarantorship for a written work. At times, this assignment of responsibility to another party is desirable, especially when it protects writers from consequences arising from situations in which they may not fully understand whether the data is ac-curate (as in a scientific article) or whether an end-user has been sufficiently

warned of all potential harms of using a hazardous product (as in a user manual). However, it is also important to note that, despite legal responsibility, technical communicators likely still feel compelled to consider the ethical or legal liabilities they potentially bring upon clients and end users. Technical communicators seek not merely to absolve themselves from legal responsibility, but also to contribute to safe and ethical practices within their writing environments. In an article on product liability, Pamela Heylar (1992) noted that technical communicators have a responsibility not only to write clear instructions and warnings that satisfy legal requirements for adequacy, but also to engage in practices that help their companies to work toward more safe and ethical product development practices. She advises technical communicators to work with product designers, human factors experts, and end users at all stages of the product development cycle to communicate about and gather feedback on their documentation. Her suggestions are consistent with the STC Code for Communicators, written in 1988 and included in the STC 1993–1994 annual report (see Rocky Mountain Chapter of the Society for Technical Communication, 2008), which specifies that writers "recognize [their] responsibility to communicate technical information truthfully, clearly, and economically" and that to do so they hold themselves "responsible for how well [their] audience understands [their] message." This sense of ethical responsibility among technical communicators likely will not change based on legal authorship status alone. Ethical and responsible technical communicators already follow this code, despite their nonauthorship status. What may change based on authorship status, however, is the available means through which technical communicators participate in legal and ethical decision-making on the job.

Many technical communication students will be surprised to discover that they may not retain ownership of the works they prepare on the job. Instructors who share information about work-for-hire or common contractual agreements governing textual ownership will help students make the transition from an academic concept of authorship (which characterizes authorship as proprietary, originary, and solitary) to the nonauthorship model most technical communicators will encounter after graduation. Discussions of concepts of textual ownership for technical communicators tend to focus on how copyright law and other contractual agreements affect, in practical terms, what a writer can or cannot do with a written product prepared in a workplace environment. In addition to creating limitations on how a writer might seek additional revenue for a work outside of the corporate environment it was originally prepared for, however, the denial of authorship status can also contribute to a lack of professional status and decision-making power for technical communicators.

AUTHORSHIP, AGENCY, AND PROFESSIONAL STATUS IN TECHNICAL COMMUNICATION

Rethinking the properties of academic authorship in light of the practical realities of legal authorship and common composing practices can help technical communication students better understand the different conceptions of textual ownership. Another goal in addressing intellectual property issues in the technical communication classroom is to help students develop a more complicated view of the role and status of technical communicators in the workplace. A more sophisticated understanding of nonauthorship among students will lead them to explore what disenfranchises technical communicators as authors. By discussing questions of ownership and authorship, instructors and students can address the implications of assigned roles for technical communicators—as either neutral "conduits" of objective reality and "translators" of specialized information (i.e., nonauthors), or as "meaning-makers" within rhetorical contexts (i.e., authors). In the case of the former, technical communicators are relegated to the grunt work of "documenting" an already-designed product or "writing up" information provided by a subject-matter expert. In the latter case, however, they are granted the ability to contribute to the vitality and shape of the product, the organization, and the larger disciplinary discourses of science and technology. Future technical communicators who assume a form of authorship can more easily assume the role of contributor to meaning-making, as rhetorical agent, which in turn may lead to greater professional status.

As discussed earlier, the structure of legal nonauthorship is prevalent both due to common technical communication practices falling outside what is considered "authoring" and to legal and contractual negotiations establishing corporate or subject-matter authorship of works. However, this model of nonauthorship poses problems beyond the financial realm. Denying technical communicators authorship status may contribute to harmful misperceptions about the quality of their work as well as the status of technical communicators as valuable participants in the workplace. From its inception, the field of technical communication has struggled to achieve status in both academic and industry settings as a specialized field of study and practice. Gerald Savage (2003) noted, in the introduction to *Power and Legitimacy: The Historical and Contemporary Struggle for Professional Status*, that "the technical communication field lacks the status, legitimacy, and power of mature professions" (p. 1). Johndan Johnson-Eilola and Stuart Selber (2001) addressed reasons why this is the case by focusing on the need for "a coherent body of disciplinary knowledge" (p. 408) that imbues students with a common skill set and knowledge base necessary for success in the workplace. Others have noted that the chal-

lenges of establishing the value of technical communicators in industry settings may be due in part to the fact that works produced by technical communicators are not considered ends in themselves but rather a means to an end. Further, measuring the value of technical communicators cannot easily be shown by demonstrating how technical communication products contribute to a bottom line (Mead, 1998). In a field plagued by a struggle to establish its value both within the academy and in the workplace, nonauthorship status for technical communicators may function to obscure the nature of technical communicators' work and the worth of their contributions. By assigning nonauthorship to technical communicators, academics and industry professionals outside of the field fail to fully acknowledge their contributions and recognize their value as rhetorical agents, and instead view them as conduits.

Jennifer Slack, David James Miller, and Jeffrey Doak (1993) argued that researchers and practitioners have much to gain by conceiving of the technical communicator as an author. Slack et al. applied three models of communication theory to technical communication practice: the transmission model, the translation model, and the articulation model. They argued that technical communication researchers and practitioners should embrace the articulation model, which allows technical communicators to assume the role of an author who actively contributes to the creation of meaning through their composing practices: "the articulation view allows us to move beyond a conception of communication as the polar contributions of sender and receiver to a conception of an ongoing process of articulation constituted in (and constituting) the relations of meaning and power operating in the entire context within which messages move" (p. 169). As authors, technical communicators hold increased responsibility for the content and messages they craft, and they become active participants in changes to the power relations operating in a given communication situation. Slack et al. make a compelling case for the value of technical communicators as contributors to the "articulation of meaning," in arguing that by assuming authorship status, technical communicators would be free to contribute in ways that offer more than merely conveying facts.

What is not so clear, however, is whether "author status" in a traditional sense is the most productive means for establishing or confirming the role of technical communicators as meaning-makers in rhetorical contexts. About 10 years after its publication date, Slack (2004) wrote a response to her earlier, co-authored article stating that she had become "dissatisfied" with the directive "to go out into the world and assert authorship." She later saw that "the assertion of authorship offers no guarantee to technical communicators that their work will attain a level of social responsibility they may hope for" (p. 161). Following Slack, I agree that asserting authorship, at least legal authorship,

may not be all that is required for technical communicators to achieve heightened professional status as rhetorical agents. Although it does allow, perhaps, increased freedom to seek financial reward for an individual writer's contributions, it does not necessarily lead to increased responsibility for the meaning created through technical communication products. In other words, while retaining legal authorship status in a traditional sense may reward *contributions*, it does not automatically establish responsibility for communication products. A sense of *responsibility* for the integrity and quality of texts seems likewise necessary for technical communicators to achieve greater autonomy in the workplace and gain recognition as valued professionals.

Outside of the Slack et al. (1993) article, technical communication scholarship addressing the concept of authorship has been sparse. Another area of scholarship we might look to for further insight into authorship in terms of both contribution *and* responsibility includes work that has chronicled the changing definitions of technical communication and its relationship to rhetorical meaning-making throughout its recent history (Dobrin, 2004; Miller, 1979; Rutter, 2004). Two landmark essays offer definitions that challenge theories of communication that limit our understanding of the technical communicator as an author and reveal the value of establishing rhetorical agency for technical communicators. In a 1979 article, Carolyn Miller argued that scholars and instructors in technical communication should no longer privilege a positivist view of science and technology, and instead view technical writing "rather than the revelation of absolute reality, [as] a persuasive version of experience" (p. 52). Miller contended that it is useful to understand the work of the technical communicator as rhetorical, as contributing to the creation of meaning rather than merely transferring meaning (as a neutral conduit) or rendering meaning clearly (as through a windowpane). By doing so, researchers and practitioners can recognize how technical communicators participate in making rhetorical choices, as agents with responsibility for content and meaning.

Russell Rutter (2004) offered a definition of technical communication that relies on a rhetorical and historical approach:

> writing must be conceptualized as an activity that by its selection and organization of information and its assessment of audience creates its own version of reality and then strives to win the consensus of its readers that this version is valid. If technical communicators create versions of reality instead of serving merely as windows through which reality in all of its pre-existent configurations may be seen, then technical com-

> munication must be fundamentally rhetorical: it builds a case
> that reality is one way and not some other. (p. 28)

By viewing technical communicators as creating "versions of reality," rather than as neutral conduits, researchers, practitioners, instructors, and students alike can begin to understand the role of the technical communicator as one that does more than contribute to a bottom line or neutrally convey information. By assuming a role of meaning-maker, technical communicators can contribute to the shape of workplace activities, products, and the larger discourses of science and technology in positive ways. The views espoused by Miller (1979) and, subsequently, Rutter (2004) about the rhetorical work of technical communicators have been generally embraced in technical communication scholarship, which notes the usefulness of these definitions to better understanding how communicators can more ethically and responsibly participate in real-life, dynamic, and inherently complex professional communication practices.

To write well as a technical communication professional, however, is often misperceived within the corporate setting as helping a company meet a financial goal, conforming to pre-determined genre conventions, or neutrally transmitting information. This view carries over into the classroom: a cursory glance at introductory textbooks or anecdotal evidence from instructors of courses in technical communication reveals that students do not always understand technical communicators as rhetorical agents (there are, of course, exceptions to this). Instead, works of technical communication have historically been viewed—by their readers, subject matter experts, students, instructors, and even some technical communication professionals—as authorless, both in terms of how writers contribute to content ("transparent" or "objective" or "just the facts") and how they present material stylistically ("clear," "precise," "direct," "comprehensive," and "accurate"). Although technical communicators have been valued in professional and academic settings for their efficiency or proficiency, they have not necessarily been valued for their contributions as meaning-makers. Defining technical communication according to the notion of transference of objective reality encourages defining technical communicators as, at best, translators of technical material and, at worst, neutral conduits or even invisible window panes rather than as authors with rhetorical agency.

The issue of rhetorical agency and its relationship to authorship status is not a given. Technical communicators who achieve legal authorship status may not necessarily act with agency to effect change within their workplaces, just as those with nonauthorship status may be able to participate meaningfully in important decision making. Rather, rhetorical agency, or what might be un-

derstood as the capacity of an individual to shape an audience's perception or the conditions of a situation through rhetoric, may preclude, confer, and/or be produced by authorship status. Recently, scholars of rhetoric interested in the concept of agency have begun to examine the social structures and forces that precede and facilitate rhetorical agency in particular contexts. Cheryl Geisler (2004), in an article summarizing the conversation about rhetorical agency at the 2003 meeting of the Alliance of Rhetoric Societies, noted an interest in understanding "the conditions for rhetorical agency" and "the possibilities created through the arrangement of social conditions" (p. 14). Christian Lundberg and Joshua Gunn (2005), in a response to Geisler's article, explored this understanding of agency further by asking, "what happens to the conventional rhetorical account of agency if it starts out by presuming that the agency possesses the agent, as opposed to the agent possessing agency?" (p. 97). In the case of technical communicators, we might ask under what conditions does agency possess the technical communicator? That is, although legal authorship status alone will not likely lead to increased agency for technical communicators, a workplace that values technical communicators' contributions and more fully understands their roles as generators of meaning may produce conditions that facilitate greater rhetorical agency. This workplace may, in turn, lead to socially recognized authorship status, a sense of responsibility, power, and professional status among technical communicators that may or may not coincide with legal authorship.

The rhetoricians above identify what Krista Kennedy (2009) called a "bifurcation of agent and agency" (p. 306). Kennedy noted that legal authorship status (as established in the U.S. Ninth circuit opinion in *Aalmuhammed v. Lee,* 2000) requires decision-making agency and authority over a text. She argued that corporate authorship models, insofar as they rely on work-for-hire, create a situation where the writer lacks "the ability to induce the motivating factor in producing the work" (p. 8). She asserted that work-for-hire supports the notion that rhetorical agency is a condition of legal authorship: If the employer provides impetus for a written work, the conditions under which the work is created, and the resources and supported needed for its development, then "the employer assumes ownership of the resulting work" (p. 9). Kennedy recognized the ways in which authorship status—as determined through legal authorities—requires recognition of rhetorical agency among technical communicators. Technical communicators could be granted agency, or in Lundberg and Gunn's (2005) terms, agency would possess technical communicators, only if they were able to claim the social status as meaning- and decision-makers within their writing contexts. Recognizing a form

of rhetorical agency among technical communicators—that is, understanding how their writings involve more than recordings of objective reality but are instead generative acts that create meaning—may contribute to establishing legal authorship status.

Such status as authors, however, does not necessarily, or even most importantly, rely on legal authorship status. Rather, author status may be social, in which writers are recognized as rhetorical agents within their workplace environments and, perhaps, within the larger discourses of science and technology. Jim Henry (2000) noted the usefulness of a "conceptual reframing of authorship, in the academy and in the workplace, to extend it to instrumental discourse, to include multiple contributors, and to take into account the *effects* of discourse as they reverberate within and beyond local cultures" (p. 150). By recognizing the ways in which authorship is constructed differently across professional writing activities, Henry shows how we might reconstruct writers' roles as producers of organizational and cultural discourses and value systems. For instance, Henry argued that professional writers' contributory expertise includes activities that often go unnoticed in workplace environments but are nevertheless essential, including

> shaping and reshaping product development processes, document review procedures and dynamics and shaping information that will travel beyond the organization and to the larger public. These activities affect practices and considerations within the workplace and establish relationships between the organization and larger culture. (pp. 154-155)

Recognizing a new conception of the author that may be separate from the legal author highlights the rhetorical effects of the technical communicators' work, on the activities of their workplaces, their company's culture, and for the larger discourses of science and technology.

By assuming status as authors with rhetorical agency, technical communicators can attain increased professional status as potential contributors to change within their communication contexts. Such an authorship requires more than recognition for individual contributions and the ability to seek financial gain granted through legal authorship. It also requires responsibility and recognition for meaning created and acknowledgement of participation in organizational, disciplinary, and cultural discourses. This rhetorical form of authorship is more than a title that offers legal ownership; it is also the status and power as meaning-making professionals within dynamic communication contexts.

IMPLICATIONS FOR TEACHING
TECHNICAL COMMUNICATION

Nonauthorship status for technical communicators remains the default structure of textual ownership from a legal standpoint. In workplace contexts, technical communicators rarely rely on traditional composing models that are autonomous and original, nor are they automatically granted proprietorship over intellectual property. Corporate authorship and the work-for-hire doctrine may impose strict guidelines on—or even prevent altogether—the reuse and re-purposing of work. And because much technical communication involves this kind of reuse and repurposing, these limitations can place significant financial and logistical burdens on technical writers and the companies for which they work. In addition, nonauthorship status has implications for the professional status of technical communicators. In assuming a role devoid of responsibility and authority over meaning-making in their texts, writers run the risk of perpetuating a view of technical communicators as nothing more than neutral conduits of objective reality. Because of these implications of nonauthorship status, technical communication instructors would do well to teach students about authorship from two perspectives:

- Legal: How does copyright law affect technical communicators' intellectual property rights?
- Rhetorical: How can the status of author contribute to the professional integrity of technical communicators?

Gerald Savage (1996) asserted that in teaching ethical concerns, technical communication instructors should also help students "to reconceive the profession as one that can be practiced in alternative ways that would permit them greater autonomy and professional integrity" (p. 310, qtd. in Savage & Kynell-Hunt, p. 11). By teaching technical communication students about intellectual property issues from these two perspectives, instructors can help to achieve that goal. Such instruction will require that technical communication instruction address the difficulties posed by nonauthorship status, not only in terms of the practical and financial limitations of the work-for-hire doctrine but also in terms of the need to establish the role of technical communicators as authors with rhetorical agency. If instructors are to encourage technical communication students to participate in the profession in "alternative ways" that allow increased status and agency, then future technical communicators need to understand and assert their roles as ones of authority and responsibility.

Such an approach has implications for curricula in technical communication at both the undergraduate and graduate levels. Of course, the amount of time to focus on intellectual property issues as a content unit in a course will

vary depending on educational level and need of students in the class, and on curricular design and need within a program. Addressing intellectual property from a legal perspective will involve introducing the work-for-hire doctrine and contract law to students (an excellent reference for this content is Herrington's 2003 *Legal Primer for a Digital Age*). The ways in which copyright law affects ownership of texts prepared in workplace settings will be new to most students, except perhaps those who have held jobs or completed internships in which they performed writing and editing tasks. Instructors can introduce what the law says and applications of this ownership model in terms of cases, real or hypothetical.

To address intellectual property issues from a rhetorical perspective, class discussions and activities should work to break down the dichotomy between "technical communicator" and "author" as seemingly suggested by legal doctrine. It can be useful to prepare students for the workplace by introducing them to common composing practices that are collaborative and not autonomous, building on existing work rather than originary, and nonproprietary rather than owned. And it is likewise important that students understand the limitations on legal ownership of materials as determined by the work-for-hire doctrine. However, it may be necessary for instructors to look beyond typical legal approaches to determining authorship when discussing intellectual property issues in the classroom because these approaches often fail to highlight the role of technical communicators as rhetorical agents. For instance, when attending a local Society for Technical Communication (STC) chapter meeting on "Writing and Intellectual Property Rights: Respecting Others and Guarding Your Own," a patent attorney joined the group to discuss intellectual property law and its impact on how technical communicators create and manage content in a digital age. Of note was this piece of advice: "Don't be a creatively lazy fan" (Brill, 2008). As this comment illustrates, a common perception about how intellectual property issues should be treated among technical communicators can further dichotomize technical communicators and authors. This advice suggests that reusing and repurposing materials is being "lazy," when it is common practice for technical communicators; this advice also implies that technical communicators are "users" or "fans" of existing material, but not creative meaning-makers. Rather than suggesting that technical communicators act out of responsibility or authority over their texts, they seemingly act out of either "laziness" or fear of liability. A discussion of authorship and rhetorical agency, even though it strays from discussion about typical legal structures of ownership, can help here. Instructors can discuss with students how legal ownership (what can I do with this material and not face legal ramifications?) and authorship status (what are my responsibilities as an author?) are

distinct concepts, and both are useful in the work of technical communicators. Although a typical technical communicator does not work individually, creating works entirely from scratch and assuming singular ownership over texts, he or she should seek to maintain a form of authorship that grants him or her rhetorical agency. Through discussions of the competing roles of the technical communicator, students can see how authorship in technical communication can be understood from two perspectives: in terms of credit (or recognition of an individual's contribution) and in terms of authority, which can lead to increased agency as a professional.

In practical terms, the use of real or hypothetical cases that pose complex questions about intellectual property for technical communicators is a sound teaching method for instructing students about intellectual property from a rhetorical perspective. Selected scenarios and cases can be used to spark discussion, but it is important to note that they cannot teach legal behavior. Instructors and students should not seek to "solve" the cases by answering the question, "is this lawful?" Instead instructors and students should discuss the implications of different actions in terms of legal liability, ethics, and professional status. Such an approach will encourage legal and ethical activity, and it can also encourage students to actively participate in future workplace discussions on the issues. Broadly speaking, the goals for teaching about intellectual property in the technical communication classroom are to help students clarify their own thinking and judgment on intellectual property issues, gain greater confidence in addressing complex questions about intellectual property, and articulate those judgments more effectively.

Sample scenarios and cases might resemble the ones outlined in the opening paragraphs of this chapter. These cases were selected because they do not lend themselves to clear-cut answers. The first case raises questions about reusing and repurposing material. Through analyzing this case, students will see that the issue of legality ("who owns this work?") is not always simple. Although it is common for technical communicators to reuse and repurpose existing material, they must first take into account the source of such material. The work-for-hire doctrine specifies that the employer, rather than an individual writer, retains legal ownership of a work when it is prepared in the workplace. In this case, before the technical communicator can proceed with her revision of the existing documentation, she needs to determine who owns the work: her company, their competitor, the users participating in the online forum, or the party hosting the online forum? The technical communicator has discovered that portions of the work that she has been assigned to revise has been copied from two other sources for which the employer does not retain ownership rights. The first source includes the user manuals that can be

accessed freely online from a well-known, industry-leading competitor's Web site. While writers feel free to reuse and/or build on materials prepared within their own company, materials prepared in other workplaces cannot likely be reused. Even though the materials are accessible to the public on a free and open Web site, they cannot be used without the permission of the company who legally owns them. The second source is material written by end-users of the product, copied from online public forums where users pose questions and respond with solutions. Even if these forums are publicly accessible and unaffiliated with another company, this text could be owned by the user who wrote it or by the party responsible for hosting the online forum, depending on whether a user agreement is in place that establishes ownership. Therefore, while the technical communicator likely will not be able to legally assume ownership over the text she has been asked to revise, some interesting questions arise concerning her ethical responsibilities based on what she has discovered. If the end-users of the product have pointed out errors in existing documentation and provided solutions for how to solve other users' problems, the technical communicator may feel compelled to share this new information. How should she do so?

The second case raises questions about receiving credit for the contributions made by a technical communicator. In this scenario, a writer has prepared user manuals for a new product, which have been packaged with the software and sold to a larger, third-party corporation. The technical publications department at the corporation determined that if they used the software company's existing documentation, they could drastically reduce their document development time. However, they are not sure whether the corporation has legal ownership over the user guides. In this scenario, the reason for wanting to reuse the material appears to be related to efficiency—both in terms of time and money. It is likely that from a legal standpoint, such reuse would be permissible. If the corporation purchased the software and its documentation as a package, then the technical communicators there may be able to reuse the software company's existing documentation. However, such use may raise some interesting questions about the relationship between professional status and author status for technical communicators. Will the technical communicators at the corporation receive credit for the work in the form of monetary compensation or increased professional status? What are the implications of packaging a software product and its documentation into a single unit? Does this model perhaps negatively affect the perception of the value added by the technical communicator to the overall quality of the product? Such questions reveal the implications of legal ownership models for the perceptions held of technical communicators by those outside of the field.

In scenarios such as these, instructors can demonstrate how questions about intellectual property for technical communicators raise deeper questions about authorship from legal and rhetorical perspectives. By teaching about intellectual property issues in the technical communication classroom from these two perspectives, instructors can help students to gain greater confidence in addressing complex questions about intellectual property and to articulate those judgments more effectively. With this background, students will be able to participate more fully in discussions about intellectual property, an important first step toward better communicating their value as rhetorical agents within their future workplace cultures.

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