Fair Use & The Teach Act For CWU Online Instructors

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Why Do We Care?

Lawsuits against academic institutions for copyright infringement is no longer a hypothetical.
Recent Court Cases

• Author’s Guild v. Google – Digitizing sections of books, but providing link to purchase the books. In appeal.


• AIME v. UCLA – Ambrose Video sued UCLA for streaming video to students. The case was dismissed, *but only on technicality because Ambrose is not the copyright holder.*
Court Case Reading

- Author’s Guild v. HathiTrust
  The HathiTrust Case and Appeal: Fair Use and Technology

- AIME v. UCLA
  Judge Throws Out Copyright Lawsuit Over UCLA's Streaming of Videos to Students

- Google Books
  Judge Dismisses Authors’ Lawsuit Against Google Books

- Cambridge University Press v. Georgia State
  Publishers and Library Groups Spar in Appeal to Ruling on Electronic Course Reserves
When To Be Aware Of Fair Use?

- Clipping and copying materials into teaching tools
- Posting materials for distance learning
- Developing databases of copyrighted works for research
- Sharing articles and other materials with colleagues
- Developing digital libraries
- Placing copies on library reserves
4 Factors of Fair Use
From Section 107, US Copyright Law

1. Purpose and character of the use; is it for commercial or nonprofit educational purposes

2. Nature of the copyrighted work; if it was primarily created for the educational market is likely disfavored for fair use arguments; same as for artistic, rather than non-fiction, works

3. Amount and substantiality of the portion used in relation to the copyrighted work as a whole

4. Effect of the use upon the potential market for or value of the copyrighted work
TEACH Act of 2002

"Technology, Education and Copyright Harmonization Act"

TEACH redefines the terms and conditions on which accredited, nonprofit educational institutions throughout the U.S. may use copyright protected materials in distance education—including on websites and by other digital means—without permission from the copyright owner and without payment of royalties.

-- American Libraries Association
Specific technological requirements of the TEACH Act that are relevant to Blackboard™:

In summary, if instructors and/or institutions wish to take advantage of the opportunities provided by the TEACH Act for using copyrighted materials, they must reasonably:

- limit access to copyrighted works to students currently enrolled in the class;
- limit access only for the time needed to complete the class session or course;
- inform instructors, students, and staff of copyright laws and policies;
- prevent further copying or redistribution of copyrighted works;
- not interfere with copy protection mechanisms
The Library Suggests:

- Have your students *search* for articles in library databases, rather than using a pdf wherever possible
- Linking to resources on the open web for music or video
- Submit a formal request for streaming video, Brooks Library & MML will do our best to fulfill them
- Be careful about copying book chapters
Brooks Library Streaming Services

http://www.lib.cwu.edu/ServicesFaculty
Fair Use & Teach Act Resources

• **Teach Act Checklist** – Colorado State University

• **Fair Use Evaluator** – American Libraries Association

• **Code Of Best Practices In Fair Use for Online Video** - American University’s Center For Social Media

• **Stanford Copyright & Fair Use Center** – Stanford University
For More Info

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