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Supreme Court Case Highlights Challenges of Copyright

June 29, 2011

BLOOMINGTON, Ill. -- Understanding the ins and outs of copyright laws can be as confusing as navigating a continually shifting maze. With the U.S. Supreme Court debating legislation on copyright issues this summer, Illinois Wesleyan librarians shed light on the challenges of upholding copyright in a digital world.

"We live in a copy-and-paste society," said University Librarian Karen Schmidt, who oversees copyright compliance at the University. "The inclination in the public is to say, 'I found it on the Internet, so it must be okay.' There are an incredible number of resources on the web, but that amazing access also makes it foggy to understand what the obligations are for the ethical use of information."

Copyrights can cover anything from the text of the novel *The Girl with the Dragon Tattoo* to a painting by Kandinsky or a song from a Broadway musical. Use or reproduction of a copyrighted item without permission of the owner is illegal. Copyrights generally lapse 70 years after death of the creator, according to the U.S. Copyright Office. Once the copyright expires, the work enters what is called "public domain," meaning anyone can reproduce the work without seeking permission.



Government works like the Constitution remain in the public domain.

"Works that are in public domain have either gone out of copyright or may have always been available to the public, such as government documents which are produced with public money," said Schmidt, citing examples such as a composition by Beethoven or a copy of the Declaration of Independence.

This summer's court case will review the U.S. policy on public domain when it comes to some foreign works. The case, *Golan v. Holder*, is revisiting the Uruguay Round Agreements Act of 1994, which pulled many items generated in foreign countries from public domain in America, and placed them under copyright restrictions. "It is a question of how the U.S. operates within international copyright law," said Schmidt. "Copyright can have a whole, big murky area out there, and the more we digitize, the murkier it gets."

At Illinois Wesleyan, as at universities all over the world, the Internet has opened up countless resources for students with the click of a mouse, said Schmidt, though she added that students who properly cite the sources they use in a research paper never have to deal with copyright issues. She noted putting a picture of Picasso's "Guernica" in a paper or PowerPoint presentation for class generally does not violate copyright. "The question arises when the image becomes available for others," she said.



Alfred Hitchcock's movie *39 Steps*
is now in public domain.

One of the roles of The Ames Library is to help students understand how copyright affects their research and the original works they create. "The moment you have written or produced or created something, you have copyright over it," said Schmidt.

If a student's work is published in a journal or posted to the Internet, copyright comes into play. The Ames Library has an online collection known as **Digital Commons** that posts everything from University committee reports to student papers that appear at the annual John Wesley Powell Conference on campus. "Digital Commons is fully searchable on Google and gets very high hit rates," said Schmidt. "So we want to make sure we have permission to use any copyrighted material embedded in the document, such as images." She added that students whose pieces are chosen for Digital Commons work with library faculty to understand the importance of copyright and how to obtain permission if needed.

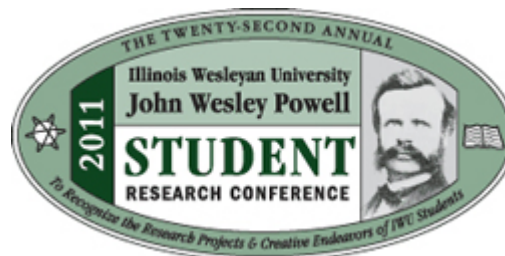
IWU Scholarly Communications Librarian Stephanie Davis-Kahl believes Digital Commons creates an opportunity to educate students of their rights when it comes to copyright. "It's important for students to understand that no matter what they create -- whether a paper, a piece of music or a drawing on a napkin -- they are the copyright owner. There is nothing special they need to do to assert that copyright," she said. When the University posts a work on Digital Commons, it is asking students for

permission to place their work on the Internet. "I think it is compelling to those students to see that we are saying, 'this is yours and you are giving us permission,'" Davis-Kahl said.

The majority of the nearly 7,300 documents on Digital Commons are student-generated works, said Davis-Kahl, who assists students in gaining permission or finding alternatives if they confront copyrighted materials. "Copyrights can vary depending upon who owns the image or work, and what they require for permission," she said. While some copyrights demand artists and scholars be paid for the reproduction of their work, others might only request the work be attributed to them. "The important step is getting permission," said Davis-Kahl. Faculty can face the same problems when getting their work published, said Schmidt. "Scholarly publishers are going to assure that the researcher has obtained copyright permission, so they will not be sued when they publish your work," she said. Last year, Schmidt helped Professor and Director of Greek and Roman Studies Nancy Sultan find images of Jacqueline Kennedy Onassis for her article "Jacqueline Kennedy & the Classical Ideal." "Without the help of Karen Schmidt, I would have gone crazy trying to get permissions for all the images I used," said Sultan, who found many publishers simply would not respond to repeated requests. "In one case, where the image belonged to Valentino, we even called their headquarters in Italy and still got nowhere," she said.

Schmidt often advises students to start by assuming works are copyrighted. "I would caution all students to consider the material they are working with as copyrighted material unless they know otherwise," she said, adding students can find a wealth of public domain documents at websites such as Archive.org and the Library of Congress. "There are literally millions of documents now in the public domain, and more coming every day," she said.

Davis-Kahl understands that copyright can be frustrating for students, but encourages them to persevere. "The idea is that you don't want to make a decision for somebody," she said. "It's all about author rights. The author or creator has the right to decide how his or her work to be used, reused, distributed and built upon. We are trying to instill in students the concept that there are ways to share your work, and to use other people's work in an ethical manner."



Students who enter works in the Illinois Wesleyan John Wesley Powell Conference can opt to have their work posted on Digital Commons.

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