

Understanding Copyright and the Internet

Introduction

As the Internet and its graphical, user-friendly offspring, the World Wide Web, have become commonplace and widely used, a common perception has developed that the Internet and the Web are vast libraries of free, ready-to-use, ready-to-share information. This perception (or rather, this *misperception*) is wrong on several counts. First, the Internet lacks the selectivity and organization of a library; perhaps it's better visualized as a vast warehouse with piles of books, reports, videos, etc., dumped on the floor. Second, not all information on the Internet is free. A growing number of publishers, manufacturers, service companies, or other commercial ventures use the Internet's global reach to market and sell their products or services. Finally, not all the information on the Internet is "ready to use" or "ready to share;" in fact, for much information on the Internet, the opposite is true.

It comes as a surprise to many Internet users that the copyright laws which prohibit illegal copying or dissemination of books, software, audiovisuals, magazines, etc., extend into cyberspace. However, many believe that, because copyright infringement may be hard to detect online, they may copy or download information from the Internet as they please. This is not true.

How Does Copyright Work?

According to one expert on copyright and libraries, "A copyright grants to its owner the right to control an artistic or intellectual creation, to prohibit other persons from using that work in specific ways without permission, and to profit from the sale and performance of the work." (Gasaway and Wiant, p.2) The copyright protection granted to authors, publishers, and/or producers guarantees that their works will not be copied in whole or in part, without permission of the copyright owners. Copyright law prohibits "republication" of protected works, even if the "publication" is in the form of e-mail, web postings, or photocopying. Copyright law allows only "fair use" of protected materials. Under the "fair use" clause, copyright law allows limited copying and distribution of protected works, but this applies primarily to educational and non-profit organizations. Any work done at for-profit institutions, whether or not it pertains directly to profits, sales, or products, is for commercial use and is therefore *not* protected under the "fair use" clause.

These copyright provisions also apply to information and activities in the online world, including Web sites, electronic mail, or bulletin board systems, etc. Even though Internet postings are widely distributed, they *are* protected by copyright.

LOSS CONTROL TIPS

So, What's the Problem?

One of the benefits of Internet and Web technology is the ease with which anyone may create and disseminate information; on the Internet, anyone can be a “publisher.” It’s fast, easy, and inexpensive to create information and transmit it around the world. However, it’s equally easy to *copy* information from the global network, and it’s here that many of us run into problems. Unscrupulous users can easily copy, download, edit, manipulate, re-publish, and even sell information from others’ web sites, often with detrimental effect to the owners of that information.

The concepts of the Internet (free and easy dissemination of information) and copyright law (protection and control of creators’ rights to their own information creations, and the revenue therefrom) are often at odds. As both publishers and users, we must be aware of copyright law, how it affects online activities, and what we must do to be in full compliance.

How Will I Know What's Protected By Copyright?

Many web site creators will include copyright statements in their web sites; they’re often found on the first page(s), although some sites will carry the copyright statement on every page or screen. Copyright law does not require that a copyrighted work indicate copyright, though, so sometimes it’s difficult to differentiate protected works from public-domain works. In general, information posted at government web sites will be in the public domain. However, a government site may include links to copyrighted information; so be aware of where you have surfed to! Many other publicly-funded sites, such as those presented by universities, may include copyrighted information. Most commercial and personal sites will contain copyrighted material. *If in doubt, assume that the material is protected by copyright*, and seek permission before copying material, or even before creating links to it.

What Constitutes Online Copyright Infringement?

Here are just a few examples of online copyright infringement:

Copying or Downloading Information That You Should Have Bought. Supposing that one of your favorite safety newsletters is now available on the Web, but you’re reluctant to pay for something you might get for “free.” You come across a pirated copy of the newsletter posted on another safety web site, and you download it and e-mail it to several other safety professionals you know. It’s all for the public good – everyone benefits from improved safety! – so it must be OK, right?

Analysis. Wrong! Copyright exists in part to protect the revenues of publishers, authors, etc. When you make illegal copies, and especially when you distribute them to others, you deprive the publishers or authors of revenue to which they have a right. It amounts to stealing. This applies to much of the information that’s on the Web: magazine and newsletter subscriptions, technical or trade information, sheet music and song lyrics, software and computer games, videos, graphics, etc. Purchase the information you need using legal means, or use your local or corporate library to get the information you need. Many libraries maintain license agreements with major publishers or with the Copyright Clearance Center, a clearinghouse for copyright permissions from multiple publishers. In addition, when libraries purchase journal articles and other documents from commercial suppliers, copyright and royalty fees are often paid by the libraries on behalf of their users.

Creating Links from Your Site to Other Web Sites. As webmaster for your company, you have just deployed a new Web site. You have included hyperlinks to many other web sites that you know will be of interest to your clients, including government sites, commercial sites, and several that contain information that is protected by copyright. You did not bother to obtain permission from the owners of the sites to which you’ve linked; you assume that they would be pleased to get more web traffic, regardless of the source.

Analysis. While it is fine to provide links to government sites, which are in the public domain, you should always seek permission from owners of other web sites to which you want to link. (Many educational sites, especially those of public schools, universities, or libraries, are also in the public domain, but it’s always a good idea to get permission *before* you create a link.) If you provide a link to a site that is protected by copyright, you may be infringing on the copyright of the owner of that web site. In addition, owners of other web sites usually want to have some sort of control over other sites to which their sites are linked. (Consider your reaction if you should find that *your* site had been linked to other sites which you found undesirable or detrimental to your business.)

Posting Copyrighted Information On Your Web Site. As webmaster for a safety consulting firm, you’ve set up an online information center for your customers, which includes technical guidance on all sorts of safety topics. While browsing other safety web sites, you find *the* perfect article on fall protection, and decide to post on your site. You ignore the “copyright” notice on the article; you figure that since safety services are good for the public, it must be OK to share this information as widely as possible. You also notice that there are some similarities between this article and an OSHA booklet on the same topic; perhaps the article’s author used OSHA information, which is in the public domain anyway.

Analysis. It is illegal to use copyrighted material without permission or license to do so, unless the action is covered by the “fair use” provisions of the copyright law. Even under “fair use,” though, it is sometimes necessary to obtain permission. (Remember, activities in commercial or for-profit organizations, as well as in some non-commercial organizations, are *not* covered by fair use provisions.) Even if you suspect that the copyrighted material may be based on, or incorporate public-domain information (such as OSHA material) it is still protected by copyright, and should not be used without permission.

Using Material Without Giving Credit to Sources. You’ve been assigned to write an article for your department’s technical newsletter. You’re short on time, so you search the Web and find a great article. You download it, change the title slightly, edit it to shorten it a little, put your name in the byline, and submit it for publication.

Analysis. Not only is this illegal, it’s unethical and unprofessional, as well. Web sources should be treated as any other reference sources: Use them reasonably and sparingly, and give credit as appropriate. It’s acceptable to quote from others’ works, as long as you do so in a limited manner, and as long as you give credit to the author and publisher. If you want to use more than a paragraph or two, obtain written permission to do so.

But Will Anyone Really Find Out?

Publishers have always actively pursued those who infringe their copyrights. While the vastness of cyberspace often creates a *perception* of anonymity, rest assured that your visits to many web sites are recorded, analyzed, and traced. Encryption, “digital signatures,” and information metering are just some of the methods used by online publishers and Internet providers to protect their property and revenues. Legislators are amending copyright laws and regulations to reflect changes in technology, and to allow improved apprehension and prosecution of violators. Large corporations (which have “deeper pockets”) and their employees are especially targeted for surveillance. Proposed legislative changes include granting exclusive transmission rights to copyright holders; outlawing software that is designed to evade anti-copying protections; and providing penalties for tampering with copyright protection information (such as copyright notices). Many corporations and organizations have strict policies regarding illegal copying or use of copyrighted material. Employees’ Internet and e-mail traffic may be monitored for illegal activities, including copyright violations.

Advice for Web Designers and Publishers: Protect Yourself

- Be aware of copyright law and its implications for you and your business.
- Post copyright notices on *every* page in your Web site, not just in the opening screens.
- Post a disclaimer regarding the content and intent of your Web page.
- Post a disclaimer regarding the Web sites to which you provide links, if any.
- If you invite content or comment from others (such as hosting an interactive forum), or if you encourage others to provide links to or from your Web site, post a disclaimer regarding the content, intent, and legality (including copyright) of all such contributions and activities.
- Require first-time users of your Web site to access a page that provides copyright and disclaimer information (a “click agreement”).
- Secure adequate insurance coverage (liability, media/publishing, business interruption, etc.). Remember the Internet’s reach into foreign jurisdictions; are you covered?
- Obtain formal copyrights and patents for information or processes you create.

Advice for Web Designers and Publishers: Respect Others

- Be aware of copyright law and its implications for you and your business.
- Before you create links to other Web sites, obtain written permission from the owners of those sites (except for obvious public-domain sites, such as those of the federal government)
- Do not copy, download, or disseminate information that is, or that may be, protected by copyright, without express permission of the copyright owner, or as indicated by the web publisher in an online copyright notice. (Exception: It is acceptable to quote brief passages from copyrighted works as long as appropriate credit is given.) Obtain licenses as needed. Keep written records of the permissions you have received.
- Do not alter or edit copyrighted information, unless you have permission to do so.
- Do not pass on illegally obtained information or materials that are created or disseminated in violation of copyright law.
- If you find that you have been using or distributing copyrighted information without appropriate permission, *stop*.

Advice for Internet/Web Users

- Be aware of copyright law and its implications for you and your business.
- Do not copy, download, or disseminate information that is, or that may be, protected by copyright, without express permission of the copyright owner, or as indicated by the web publisher in an online copyright notice. (Exception: It is acceptable to quote brief passages from copyrighted works, as long as appropriate credit is given.)
- Do not alter or edit copyrighted information, unless you have permission to do so.
- Do not pass on illegally obtained information or materials that are created or disseminated in violation of copyright law.
- If you find that you have been using or distributing copyrighted information without appropriate permission, *stop*.
- Be aware that publishers are looking for copyright violators. Expect litigation to increase.
- On a regular basis, clear your PC's hard drive "cache" of the copies of Web pages that your browser makes as you search the Web.

Conclusion

With privilege comes responsibility; as we gain the privilege of access to the world's information, we must exercise our responsibility to use that information fairly, legally, and ethically.

References

1. Ardito, Stephanie C., and Carol Ebbinghouse. "All Rights Reserved...Well, Maybe Not: Copyright in a Web World." *Searcher* 5 (5): 24-34, May 1997.
2. Chabrow, Eric R. "Copyrights: What's Left?" *Information Week*, p. 46+, March 25, 1996.
3. Cohen, Jodi B. "Cyberspace Is Like Wild West For Copyright Law" *Editor & Publisher*, 129 (51), p. 22, December 21, 1996.
4. Ebbinghouse, Carol. "Taming the Wicked, Wicked Net: Acceptable Use and the Internet." *Searcher*: 5 (7): July/August 1997.
5. English, Elaine P. "Avoiding Copyright and Other Legal Pitfalls in Setting Up Your Web Site." *Journal of Advertising Research*, 37 (2): 92-95, March 1997.
6. Friedman, Sam. "Uncertain Internet Liabilities Complicate Web Loss Control Efforts." *National Underwriter: Property & Casualty Edition* 101 (16): pp. 3, 46, April 21, 1997.
7. Gasaway, Laura N., and Sarah K. Wiant. *Libraries and Copyright: A Guide to Copyright Law in the 1990s*. Washington, DC: Special Libraries Association, c1994.
8. Herbst, Kathy. "Employees Surf the 'Net: Will Your Company Sink or Swim?" *Managing Office Technology*, 42 (5): 21, 23, May 1997.
9. "It's the World's Biggest Copy Machine." *PC Week*, 14 (4): 109-110, January 27, 1997.
10. Jackson, Matt. "Linking Copyright to Home Pages." *Federal Communications Law*, 49 (3): 731-759, April 1997.
11. Levins, Hoag. "New Online Copyright Standards." *Editor & Publisher*, 130(2): p. 35, January 11, 1997.
12. Marx, Wendy. "Marketers differ on copyright questions." *Business Marketing Net Marketing Supplement*, p. M8, M20, November 1996.
13. Nerney, Chris. "Copyright Warning." *Network World*, 13 (11): 1, 76, March 11, 1996.
14. Port, Otis. "Copyright's New Digital Guardians." *Business Week* no. 3474, p. 62, May 6, 1996.
15. Roberts, Sally. "Internet Brings Wide Web of Exposures." *Business Insurance* 31 (17): 22, April 28, 1997.
16. Stuart, Linda. "Copyright Rules Updated For the 'Net.'" *Info World Canada*, 22 (2): p12, Feb. 1997.
17. Wallack, Todd. "Copyright Protection Now Your Job." *Network World*, 14 (3): pp. 1-2, Jan. 20, 1997.
19. Weaver, Peter. "Covering the Bases For Your Web Site." *Nations Business*, 84 (11): 38R, Nov. 1996.
20. Weiner, Robert S. "Copyright in a Digital Age: Practical Guidance for Information Professionals in the Midst of Legal Uncertainty." *Online* 21 (3): 97-102, May/June 1997.
21. Wojcik, Joanne. "Internet Publishing Raises Legal Questions: Copyright Violations Are Possible." *Business Insurance* 30 (9): p. 21, February 26, 1996.

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