Copyright for Undergraduates: Lessons Learned While Teaching a Semester-Length Online Course

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Abstract
Semester-length copyright classes for undergraduates that cover topics of general interest are few and far between. However, considering the exponential growth of digital technologies as well as the amount of available information from year to year, such a class becomes increasingly relevant for this demographic. Over the past several years, this author has taught "one-shot" library instruction classes and workshops in copyright for undergraduate and graduate students across different disciplines such as visual art, media arts, music, theatre, education, and business. One hour, or one and a half hours, for a "one-shot session" was never enough time to cover all of the topics relevant to the particular audience. In order to cover all of the necessary topics to help undergraduate students get a better understanding of how copyright law affects them, this author decided to offer a semester-length class on copyright with a multidisciplinary approach.

Introduction
In the last nine (9) years as the Visual and Performing Arts Librarian and Media Coordinator at the University of Montana's Mansfield Library, I have been fortunate to develop my interest in copyright as it affects libraries and scholarship.[2] In addition to

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[1] Tammy Ravas received her BM in Music Education from the Crane School of Music at SUNY Potsdam as well as her MLS and MA in Music History from SUNY at Buffalo. She also received Level 1 Certification in Copyright Management and Leadership from the, now defunct, Center for Intellectual Property at the University of Maryland. Professor Ravas has presented papers and taught workshops about copyright at the state, national, and international levels. She is not a lawyer and cannot provide legal advice; the content of this paper should be used for informational purposes only.

[2] The University of Montana is the flagship public higher education institution in the state of Montana. The top five (5) bachelor's degrees were awarded in business, social

continuing education opportunities, much of this has been accomplished through quotidian duties such as providing reference service as well as workshops and one-shot sessions to students, faculty, staff, as well as the larger community at my library. In the first few years in my position at the University of Montana, the majority of these queries would come from faculty as well as graduate students completing their theses or dissertations. Over the last several years, I began to field an increasing amount of questions and concerns that were specific to undergraduate students' uses of copyrighted materials. Sometimes these questions did not initially mention copyright; for instance: 1.) student groups wished to learn how to secure public performance rights to show films; 2.) art students were concerned about their digital sketches and scanned works being "scooped"; and 3.) education majors were concerned about legally using materials in the classroom. Within these workshops and reference queries, I have only ever had enough time to cover very specific aspects of copyright. Here are some selected topics: finding and using public domain material, utilizing resources such as Kenneth Crews' *Fair Use Checklist* (2008), best practices in fair use for specific disciplines (Center For Media and Social Impact, 2016), as well as the use of streaming media for completing class projects. Regardless of the duration of the one-shot sessions or reference interactions, I was left recommending that patrons supplement class content with basic primers on copyright so that they had a better understanding of the background and context for how these specific aspects of copyright would function.

In order to give undergraduate students an option to get a more in-depth look at how copyright affects them, I decided to offer an online semester-length course for the fall semester of 2015. There were several justifications and motivations for doing so. The Association for College and Research Library (ACRL)'s *Framework for Information Literacy for Higher Education* explicitly addresses the importance of copyright and ethical uses of information within the frame entitled, "Information has Value." Here are a few examples under the "Knowledge Practices" section of this frame:

Learners who are developing their information literate abilities
- give credit to the original ideas of others through proper attribution and citation;
- understand that intellectual property is a legal and social construct that varies by culture;
- articulate the purpose and distinguishing characteristics of copyright, fair use, open access, and the public domain (Association of College and Research Libraries, 2015).

Another justification for this course is that librarians are often considered to be the authorities of copyright on college campuses due to the fact that they work directly with such issues on a day-to-day basis (Ferullo, 2011, p. 112). Faculty members from other departments express concerns with college students' usage of copyrighted materials with

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sciences, visual and performing arts, natural resources and conservation, and communication and journalism. There were 11,692 undergraduate students and 2,260 graduate students enrolled as of 2014 (Voluntary System of Accountability, 2016).

today's technologies; with this in mind, however, they lack the time and resources to provide such instruction:

> Faculty burden with teaching their courses rarely are able to address the issues of copyright in and out of the classroom, even though students desperately need this information. Librarians, already teaching the tenets of information literacy, can provide both the point-of-need instruction and expertise to ensure that all students are informed about these issues (Rodriguez, Greer, & Shipman, 2014, p. 486).

Lastly, I wanted to offer a semester-length course so that I could adequately cover the intricate details of copyright issues with undergraduate students. Although I was able to get some instructors to extend my copyright sessions and workshops to two classes rather than just one, such instruction efforts only ever served as an introduction. In order to better grasp the complexities of copyright as information literacy skills, students benefit from a semester-length course more than they do from one or two class sessions (Mery, Newby, & Peng, 2012, pp. 369-370).

I wanted the course would take a general approach to the topic to entice students from all disciplines to sign up for it. I marketed it heavily towards students in the humanities, visual and performing arts, journalism, education, and business. These areas were targeted mainly because instructors had approached me requesting one-shot sessions on copyright, or patrons from those areas had asked for information on copyright. A stronger method to entice students to enroll in the course was to get it approved for fulfilling a general education requirement. I successfully applied for the course to fulfill an intermediate writing general education requirement.[3] The online, 300-level course was then ready for construction.

Models for Planning the Course

I started planning for the course by putting together a list of my most frequently consulted resources on the topic as well as examining existing syllabi for similar classes. My main criteria for selecting such resources-- e.g. specific web sites and books-- was if I frequently referred patrons to them after a reference interaction or teaching a workshop. The sources that I selected served as helpful primers that were directed at a general audience. The following resources listed below assisted me in creating an outline for my syllabus and provided some of the content for the course:

> Stanford University Libraries. (2016). *Copyright and Fair Use.* Retrieved from http://fairuse.stanford.edu.

> Columbia University's Copyright Advisory Office. (2015). *Copyright Quick Guide*. Retrieved from https://copyright.columbia.edu/basics/copyright-quick-guide.html.

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[3] The University of Montana requires its undergraduate students to take a certain number of writing-intensive courses (University of Montana Faculty Senate, 2015).

The two guides listed above are excellent overviews of copyright law for those who have little experience with copyright.

> Brigham Young University's Copyright Licensing Office. (2016). *Copyright 101.* Retrieved from https://sites.lib.byu.edu/copyright/about-copyright/tutorial/.

This web tutorial listed above was written for undergraduate students, and features videos and quizzes on the basics of copyright.

> Crews, K.D. (2012). Copyright Law for Librarians and Educators:
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> Creative Strategies and Practical Solutions. 3rd Ed. Chicago, IL: American Library Association.
>
> Russell, C. and Buttler, D.K. (2004). Complete Copyright: An Everyday Guide for Librarians. Chicago, IL: American Library Association.
>
> Russell, C. (2012). Complete Copyright for K-12 Librarians and Educators. Chicago, IL: American Library Association.

Although the intended audiences for these three books listed above are librarians and educators, they provide clear and concise explanations for anyone wanting to learn more about copyright.

Next, I reviewed notes from online continuing education courses in copyright that I have taken within the last several years. These courses were directed at librarians, educators, and academic professionals. Like the web resources and texts listed above, these continuing education opportunities also helped me with the structure and content for my upcoming course. In particular, I consulted resources from the University of Maryland's—now defunct-- Center for Intellectual Property Certification in Copyright Management and Leadership program (2011), as well as Duke and Emory University's MOOC, Copyright for Educators and Librarians (2016).

Were there actually any undergraduate semester-length courses in copyright, however? After some extensive Google searches, along with searching in the Mansfield Library's online databases in education, library science, and general areas, I discovered four (4) such courses. Two of them covered the topic in a general manner and the other two had a more specific focus on music copyright. The course, "Copyright, Commerce, and Culture," at New York University's Department of Media, Culture, and Communication, took a general approach to different issues in copyright with a slight emphasis on digital and online technologies. The current web site from the course provides a sample syllabus, but it is not clear who teaches it (2016). "Music, Copyright, and Publishing" at the University of Texas, Austin is taught by Ed Fair. This course covered copyright issues very specific to the music industry such as rights holder agreements between musicians in a group, as well as between musicians and record labels or publishers

(University of Texas, 2016; Fair, 2015). Indiana State University's "Copyright in the Age of Napster," taught by Theodore Piechocinski, was intended for music business majors, but was open to all students. It focused on the changing environment in which music sound recordings were being sold and distributed– both legally and illegally– as well as how copyright law affected students' lives (Piechocinski, 2009, p. 162). Ewa McGrail and J. Patrick McGrail developed the course "Copyright with Web 2.0 Applications" which was taught to pre-service and in-service English and Communications teachers at Georgia State and Jacksonville State Universities. The course stressed the legal implications of student teachers using others' works as well as their own rights as creators of copyrighted materials (McGrail and McGrail, 2010, p. 264).

Course Description and Structure

I entitled the course, "Who Owns Culture? An Introduction to Copyright," and provided the following description for advertisement posters placed around the University of Montana campus: This class will explore the question of "Who owns culture?" through the lens of legal realities and creative conflicts. Students will study contemporary and historical accounts of how Western society has perceived and practiced "ownership" of culture—from music to art and general literature. Currently this system of legal "ownership" is called copyright law. This class will introduce students to the basics of copyright law in the United States using real world examples of students' own works of authorship along with uses of others' works of authorship.

I planned on covering the following topics as one- or two-week long units for the course:
>Week 1 and 2: Works protected and exclusive rights
>Week 3: History of copyright
>Week 4: Registering works and works for hire
>Week 5: Public domain and copyright duration
>Week 6: Creative Commons
>Week 7: Copyright infringement and penalties
>Week 8 and 9: Fair use
>Week 10: First Sale and licensed uses
>Week 11: 17 USC Sec. 110 (1) and (2)
>Week 12: DMCA
>Week 13: Getting permission and orphan works
>Week 14: Review and discussion of copyright cases
>Week 15: Continuing education opportunities in copyright

In the beginning half of the course, each unit built upon the other so that students had context for more complex issues such as fair use and discussion of individual cases. In addition to reading articles about specific copyright issues, I assigned book chapters and some video content. Below is a summary list of readings and videos:

>Aufderheide, P. & Jaszi, P. (2011). *Reclaiming Fair Use*. *How to put balance back in copyright.* Chicago, IL: University of Chicago Press.

Bettig, R. (1996). *Copyrighting culture: The political economy of intellectual property.* Boulder, CO: Westview Press.

Crews, K. (2012). *Copyright For librarians and educators: Creative strategies and practical solutions* (3rd ed.). Chicago, IL: American Library Association.

Franzen, B. (Producer), & McLeod, K. (Executive Producer). (2009). *Copyright Criminals* (Motion picture). United States: Changing Images.

United States Copyright Office. (2016). *Circulars and brochures*. Retrieved from http://www.copyright.gov/circs/.

Vaidyanathan, S. (2003). *Copyright and copywrongs.* New York: New York University Press.

In addition to readings and videos, weekly assignments consisted of online discussion forum participation, open and closed book quizzes, and essays. Mid-term and final projects consisted of an annotated bibliography and a 10-12 page final paper.

Student Progress and Assessment

Seven (7) students registered for the course with three (3) dropping, and four (4) remaining at the end of the semester. The students' majors were mainly in journalism and communications. To assess what students already knew at the beginning of the class, I required them to take a pre-test during the first week. There were 16 multiple choice or short answer questions which ranged in level of difficulty. The highest grade on this pre-test was 44 percent correct and the lowest was 20 percent correct; the average was 38 percent correct. To give some examples of test questions, all four students incorrectly answered the following: "Which of the following works are copyrighted?" and "What was the historical and geographical origin of American copyright law." Three out of the four students correctly answered the following two questions-- one about 17 USC Sec. 110 (1) and the other about the difference between copyright infringement and plagiarism, respectively:

Professor X borrows a DVD of The Blob from her institution's library to show as part of her B-movies class. The institution's library purchased this film at a regular consumer price of $19.99 versus the "Educational Uses Only" license for $399.99. Does Professor X or the institution's library need to purchase the "Educational Uses Only" license in order to legally show the film for the B-movies class?

An English Literature student copies and pastes a very long quote from Tolkien's *Silmarillion* in his paper and forgot to correctly cite the source. What has he done wrong?

To assess student progress in writing throughout the semester, I relied on pre-existing rubrics for such assignments. Online discussion forum responses were graded by using

Northern Arizona University's *Instructor-facilitated online discussion participation rubric* (2016). To grade student essays, I used Longwood University's *Grading Rubric For Essays* (2015). The annotated bibliography and the final paper assignments were graded using University of Montana's *University-wide program-level assessment holistic rubric* (2013).

One thing that I discovered in the first third of the semester was that students really did not like participating in online discussion forums. In the later portion of the semester I converted online discussion topics to essay assignments. Despite the lack of popularity of the forums, one particular topic generated more lively discussion than the others. Below is this question as an example of a discussion topic for the class:

> Music and copyright infringement seem to go hand-in-hand with respect to the music industry. In this particular discussion, please address the following question: When comparing the Robin Thicke v. Marvin Gaye case and the Jammie Thomas-Rasset v. Capitol Records case, which one presented a more clear case of copyright infringement? In your humble non-lawyers' opinions, were the outcomes of each case fair or, in other words, did the punishment fit the crimes?

Nearly all of the students expressed that Ms. Thomas-Rasset committed a blatant infringement of copyright in uploading and file-sharing songs online without permission. However, the students felt that the judgment against her was unfairly excessive (Electronic Frontier Foundation, 2012). The surprising part of this discussion was the students' opinions on the Robin Thicke v. Marvin Gaye estate case. One student believed strongly that Robin Thicke and Pharrell presented the clearer case of copyright infringement because their song, "Blurred Lines" sounded very similar to Marvin Gaye's "Got to Give It Up." Other students did not agree that Robin Thicke and Pharrell were guilty of copyright infringement; even though "Blurred Lines" and "Got to Give It Up" shared a similar style, it was because the latter was nodding to the genre of the former. Within this particular discussion, we discussed the jury's instructions in the case. The jury was only able to decide the case based on the comparison of the lead sheets of both songs as well as testimony of a musicologist (Morrison, 2015, March 26).

In addition to the final paper, there was one major essay assignment. The topic was Sheperd Fairey's appropriation of the Associated Press (AP)'s photo of Barack Obama for his iconic HOPE poster. Students utilized two-weeks' worth of class content on fair use to come to their own conclusions on whether or not Sheperd Fairey's use of the AP photo of Obama for his HOPE poster was fair. Content included codes of best practices in fair use (Center for Media and Social Impact, 2016), Crews' *Fair Use Checklist* (2015), and a detailed summary of the case (Fisher, Cost, Fairey, Feder, Fountain, Stewart, & Sturken, 2012, pp. 245-268). Half of the students argued that Fairey's use was fair; the other felt it was infringement.

As this was an upper division course that fulfilled a writing intensive requirement at the University of Montana, I wanted to make sure that every student had a head start on their final paper by breaking it up into progress reports, an annotated bibliography, and

submission of a final paper. Topics for the final paper could have been anything relevant to the class that the student wanted to research. Here were the topics that students ultimately selected: Rogers v. Koons, 960 F.2d 301; how sound recordings created prior to 1972 are covered by state laws and not federal copyright; the history of the Chaffee Amendment and how copyright law does– or does not– explicitly set aside exceptions for making copyrighted materials accessible to the disabled; and European perspectives on copyright infringement and the "3 strikes" law in France. Between using the Longwood University and the University of Montana rubrics to grade essays and the annotated bibliography, respectively, I was able to help the students improve their writing abilities throughout the semester. Grades on the students' first writing assignment, which was an essay, ranged from 50% to 85%. The grades on the students' final papers ranged from 72%-98%.

Lastly, I administered a final exam with 24 questions, which covered similar topics to those given in the pre-test. In terms of results, the high score was 83% correct, the low was 73% correct, and the average was 78%. When compared to the pre-test results (38% average grade), this was indeed an improvement.

Future Plans and Conclusion:

As of writing this paper, I will be teaching the same course next fall semester in a face-to-face setting rather than online. The course still satisfies the University of Montana's general education intermediate writing requirement. In addition to teaching the class in a face-to-face setting, I will be scaling down the number of topics covered in the syllabus to make the course more relevant to undergraduate student needs. The units will be restructured to discuss specific types of uses of copyrighted materials that undergraduate students will make rather than legal issues. For example, covering specific exceptions to the exclusive rights of copyright holders made a lot of sense to me as a librarian, but it translated into a lot of dry reading according to student evaluations of the course. I will be making comparisons of student progress from the in-person class with last year's online class to continue my research on this topic.

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