

THE COPYRIGHT MANAGEMENT CENTER AT IUPUI: BRIEF HISTORY, DYNAMIC CHANGES, AND FUTURE DEMANDS

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From its base at Indiana University Purdue University Indianapolis (IUPUI), the Copyright Management Center has completed five years of innovative and diverse service for the campus, for Indiana University and for a larger academic community that finds itself increasingly caught in a tangled web of copyright concerns. Since its establishment in August 1994, the Copyright Management Center has had a central objective of helping the university community pursue innovations in teaching, research, and service by addressing the complex issues of copyright and the law's relationship to the needs of higher education. These issues sweep a broad spectrum, from the legal ownership of new works to the lawful uses of protected works under "fair use" and other opportunities.

The Copyright Management Center grew out of recognition that the relationship between university activities and copyright law was becoming more convoluted and in need of creative solutions. First, copyright law itself has been changing in ways that have direct consequences for higher education and library services. Second, new technologies at the university have given rise to new methods for creating and using copyrighted works. Third, innovations in teaching and research, such as the rapid expansion of distance learning, have generated a vast array of formidable copyright questions.

On this foundation, plans to establish the Copyright Management Center took shape in mid-1993. While many colleges, universities and libraries around the country were beginning to recognize that copyright posed concerns, key leaders at IUPUI took the initiative to establish an office that would guide the academy to a more constructive understanding of the issues and their possible solutions. Individuals such as Chancellor Gerald Bepko, Executive Vice Chancellor William Plater, and Barbara Fischler, former Director of IUPUI University Libraries, brought the idea to reality with their combined vision, support, and the all-important

funding that made the new office possible. They also made the strategic decision that the Copyright Management Center should be closely aligned with the faculty. The office might have been formulated as an administrative unit, perhaps as part of the Office of University Counsel, or it could have been established within the University Library so that it could focus specifically on library concerns. However, aligning the office most closely with the faculty served multiple purposes. This positioning helped to allay some concerns that the Copyright Management Center would hinder faculty objectives and not respond to the needs of teaching and research. Appointing a faculty member to direct the office would also allow it to be a service unit, as well as a research center for copyright issues.

At this point, the story becomes more personal. The recruitment and hiring process from my perspective began with a telephone call in November 1993 from Tom Allington, the Associate Dean of the IU School of Law - Indianapolis. The School of Law and the IU School of Library and Information Science (SLIS) expressed early interest in having the director of the Copyright Management Center join their faculties, depending upon background and qualifications. In 1993, I was an Associate Professor of Business Law at San Jose State University and interested in the exact issues of central importance to the Copyright Management Center. I had practiced law in Los Angeles from 1980 to 1990, and in 1990, I earned a Ph.D. from the UCLA School of Library and Information Science. My dissertation analyzed copyright policies at research universities around the United States. That dissertation later became the foundation of my book, *Copyright, Fair Use, and the Challenge for Universities* (The University of Chicago Press, 1993).

After a few conversations, I was persuaded to apply for the position, and in March 1994, I visited Indianapolis and Bloomington for interviews. In August of that year, I arrived in Indianapolis with my family to assume a complex roster of duties. Not only was I

appointed as Director of the Copyright Management Center, but I was also named Associate Professor in both the School of Law and SLIS. Any one of these appointments alone could be a full-time job.

Throughout the past five years, I have attended to a host of responsibilities, including teaching courses in two programs and participating in faculty meetings and committee duties. But the activities of the Copyright Management Center have expanded enormously in a relentless chase to understand the relationship between copyright law and higher education. Here is a brief summary of some of the Copyright Management Center's major activities:

- Participation in the Conference on Fair Use. CONFU was an effort lasting from 1994 to 1998 to convene participants with diverse perspectives on the interpretation of fair use by educators and librarians. I attended to articulate the views of higher education and to advance a balanced understanding of fair use.
- Development of new policy for Indiana University. In particular, the Copyright Management Center led the task of developing the new policy for IU. This office also has developed policies and procedures related to reserve systems in the library, ownership of distance education courses, and many other critical subjects.
- Hosted guest speakers on campus. Our visitors have included David Post from Temple University, Raymond Nimmer from the University of Houston, and Peter Jaszi of American University.
- Organized and hosted a "Town Meeting on Fair Use, Education, and Libraries". We held this national conference in April 1997, with nearly 100 attendees and several speakers from throughout the country.
- Ongoing workshops and discussion sessions. We have conducted open sessions on issues ranging from ownership of websites to the specialized use of visual images by artists and art historians.
- Online Copyright Tutorial. During two recent semesters, Spring and Fall 1998, the Copyright Management Center offered an Online Copyright Tutorial. This tutorial provided an overview of copyright law, particularly as it applies to higher education and libraries, by means of a series of brief and readable email messages distributed on a listserv by subscription. We were able to provide this service at no charge to subscribers. Each semester brought approximately 2,500 subscribers from around Indiana University, the state and the world.
- Copyright Management Center Website. Our website at <http://www.iupui.edu/~copyinfo> provides access to a wealth of materials organized according to the subtopics in copyright law of greatest interest to our constituents. The original site was largely the work of Judy Homer of the Copyright Management Center

and Cindy Hollingsworth of IUPUI's Center for Teaching and Learning. Major developments in the law and in the scope of the Copyright Management Center's activities led to a need for to overhaul the website. A new version, prepared with the talents of Allison Kopczynski of the IUPUI University Library, was launched in March 1999. Since that time, the new site often has received 100 visits per day.

- Copyright publications. The Copyright Management Center and its staff members have prepared numerous brief publications and announcements about recent developments and commonly occurring problems related to copyright and education. Most of those publications are available on the Copyright Management Center website. Original publications range from summaries of the newly enacted Digital Millennium Copyright Act to the meaning of fair use when mounting readings on a website for classroom instruction.
- Federal Government Relations. The Copyright Management Center works closely the IU Office of Public Affairs and Government Relations to help communicate the concerns of Indiana University with respect to pending legislation in Congress and other federal-policy developments. We have met with members of Congress to communicate our views and concerns, and we have worked with the President of Indiana University and others to advance those concerns.
- Coordination with state and national organizations. The creation of the Copyright Management Center in 1994 was instrumental in the formation of a Copyright Committee of the Indiana Partnership for Statewide Education. With members from several colleges and universities around Indiana, this committee is examining and advancing the understanding of copyright issues, especially as applied to distance learning. I also serve on the Task Force on Copyright and Intellectual Property for the Association of American Universities, the National Association of State Universities and Land-Grant Colleges, and the American Council on Education.
- Organization of a statewide meeting on distance learning and copyright. In January 1999, the Copyright Management Center organized a meeting, in association with the Indiana Commission on Higher Education. The purpose of the meeting was to discuss the pending effort by the U.S. Copyright Office to recommend changes in the copyright statute addressing the use of works in distance learning. Attending the meeting were participants from all colleges and universities within Indiana. An outcome of the meeting was a report encompassing the views and perspectives of Indiana educators. That report was delivered to the U.S. Copyright Office and made a part of the official study.
- Participation in public hearings on distance learning legislative proposals. In February 1999, I testified in

public hearings before the U.S. Copyright Office to discuss experiences addressing copyright issues and to present a proposal developed by the AAU, NASULGC, and ACE. Dwayne K. Buttler of this office also testified that day on behalf of the Indiana statewide effort and the report that resulted from the January conference.

- Numerous individual inquiries. The Copyright Management Center has fielded hundreds of individual inquiries from faculty, librarians, and many other members of the university community, as well as from interested and concerned individuals around the country. Handling these inquiries can be enormously rewarding and at the same time challenging and perplexing. They can also be a severe test of the limits of our service. An inquiry may be of tremendous importance to the particular person who brings it forward, but responding to it may not be the most efficient use of our scarce staff time and resources. Moreover, the Copyright Management Center is not a law office, and thus we cannot give legal advice. Consequently, the practical realities are that we sometimes need to decline politely many individual requests for support and assistance.

In 1996 the Copyright Management Center was fortunate to receive a three-year grant from the Indiana University Strategic Directions Charter, under the direction of President Myles Brand. That grant enabled the Copyright Management Center to expand its staff and services. Current members of the Copyright Management Center staff accompanying me on this copyright journey include Dwayne K. Buttler, Senior Copyright Analyst, and Becky Parman, Administrative Secretary. Mr. Buttler is a graduate of IUPUI and the IU School of Law-Indianapolis. Ms. Parman is a graduate of the University of Evansville. Part-time staff members assisting with special projects include Barbara Gushrowski and Noemí Rivera-Morales. Both are graduates of SLIS.

The Copyright Management Center continues its work with committed support from IUPUI and operates from offices in the IUPUI University Library. With variable university funding and swift changes in the complexity and magnitude of copyright issues, we unfortunately cannot address all issues and serve all needs. Therefore, we have identified these priorities for the current year:

- The copyright complexities of distance education. Distance education raises formidable concerns related to the fair use of existing works, along with identifying and establishing rights of ownership associated with websites, videotapes, and other instructional materials created at the university.
- Electronic reserves and "Oncourse." Electronic reserves in the library and the university's web-based

instructional delivery system, known as "Oncourse," allow instructors to make the full text of selected works available to students enrolled in particular classes. These systems raise thorny issues of fair use and of the need to secure permissions from copyright owners under certain circumstances.

- Community education. The Copyright Management Center continues to offer information resources on its website and in public instructional programs. This year we have offered a series of programs open to the public and geared specifically for the university community on a range of major issues, such as fair use in the web environment, ownership of faculty scholarly works, and copyright issues for distance education.
- Online Copyright Tutorial. During 1998, the Copyright Management Center twice offered the Online Copyright Tutorial. We hope to offer some variation of the tutorial in the near future.
- Licensing of library resources. The University Library is increasingly acquiring journals and other resources in electronic form under the terms of detailed license agreements that govern the permissible uses of the materials. The Copyright Management Center is addressing alternatives for license agreements and identifying issues of major interest or concern.

Through all of its services and activities, the Copyright Management Center continues to keep its focus on the needs of higher education and librarianship. While the Copyright Management Center may well address the law and be immersed in questions of statutory interpretation and liability risks, we address these issues with an eye toward understanding and applying the principles of copyright law for the benefit of higher education and research. For example, copyright law may fundamentally establish an ownership right in new works, but the creative and insightful management of that ownership can further the educational goal of making new works widely available to advance learning. Moreover, the ownership rights that are granted by copyright law may often prevent or limit some constructive uses of protected works, but fair use and other exceptions allow the university community to build on existing materials, within limits, for the advancement of teaching, scholarship, and research.

The central mission of the Copyright Management Center in all of its activities is to promote new understanding of copyright law and its relationship to the university. Senior officials at IUPUI and IU deserve enormous credit for their early recognition of these important issues and for establishing the Copyright Management Center to address the complexities of copyright law for the benefit of the broader academic community.