Cyberspace Law Update: Copyright Law and Policy

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Copyright Policy Development

• Ownership of Copyrighted Materials
  ▪ Distance Education and Digital Course Materials
  ▪ Unbundling Rights
  ▪ Open Source Software

• Use of Copyrighted Materials
  ▪ “Fair Use” and Other Uses
    e.g., first sale, library uses, classroom use, etc.
  ▪ TEACH Act
  ▪ DMCA Non-Attribution for Faculty/Graduate Students
  ▪ Licensing of Electronic Resources
OWNERSHIP: Unbundling Rights

• Author/Publisher Agreements
  ▪ Traditional Approach: Faculty Author Assigns Copyright to Publisher
  ▪ Alternative Approach: Faculty Author Retains Copyright and Provides License to Publisher
  ▪ Unbundling Approach: Parties Negotiate Rights

• Digital Uses of Faculty Authored Works
  See Licenses from Creative Commons at creativecommons.org

• Digital Uses of Student Works

• Institutional Repositories
OWNERSHIP: Open Source Software

- Open Source vs. Public Domain
- Academic Culture: Sharing and Improving
- Advanced IT Research Collaboratories
- The Software Dilemma: Copyright or Patent
- Determinations of Commercial Viability
- CopyLeft Licenses
USE: TEACH Act

• Institute policies regarding copyright
• Provide informational materials to faculty, students and relevant staff members that accurately describe, and promote compliance with, the U.S. copyright laws
• Provide notice to students that materials used in connection with the course may be subject to copyright protection
Use: DMCA

- Adopt and reasonably implement and inform subscribers and account holders of a policy that provides for the termination in appropriate circumstances of subscribers and account holders who are repeat infringers - Section 512(i)(1)(A)

- Accommodate and do not interfere with standard technical measures - Section 512(i)(1)(B)

- Institution must provide to all users of its system or network informational materials that accurately describe, and promote compliance with, the laws of the United States relating to copyright - Section 512(e)(1)(C)
USE: Licensing Software/Content

• Software Licensing Operations
  ▪ Guide to the Legal and Ethical Use of Software for Members of the Academic Community
    See www.umd.edu/software-guide
  ▪ Variability of Software Licensing Terms and Conditions

• Licensing Electronic Resources
  ▪ Principles for Licensing Electronic Resources
    See www.arl.org/scomm/licensing/principles.html
  ▪ Necessity to Preserve Uses Available Under Copyright Law

• Click-Through and Shrink-Wrap License Agreements
• Relationship to Contract Policies, Procurement Rules, and Authorized Signatories
Peer-To-Peer (P2P)

- Peer-to-Peer (P2P) Filesharing Applications – e.g., Kazaa, Gnutella, Morpheus, etc.
- Bandwidth Management Implications
- College and University Responsibility for P2P
  - See Section 512 - Limitations on Liability Relating to Materials Online, especially (a)-(d) and (i)
- Implications of RIAA v. Verizon
  - See Section 512(h) of U.S. Copyright Act
- Joint Committee of the Higher Education and Entertainment Communities
Copyright Legislation to Watch

• Boucher-Doolittle Bill – Digital Media Consumers’ Rights Act
• Lofgren Bill – Digital Choice and Freedom Act
• Cox Resolution – Consumer Technology Bill of Rights
• Hollings Bill – Consumer Broadband and Digital Television Promotion Act
• UCITA – Uniform Computer Information Transactions Act
• Higher Education IT Alliance – heitalliance.org
For more information:

See:

CopyOwn
www.umd.edu/CopyOwn

CopyFair
www.umd.edu/CopyFair

Project NEThics – University of Maryland
www.umd.edu/NEThics

Center for Intellectual Property and Copyright
in the Digital Environment
www.umuc.edu/distance/odell/cip

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