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Questions & Answers -- Copyright Column

Laura N. Gasaway

University of North Carolina, laura_gasaway@unc.edu

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Questions & Answers — Copyright Column

Column Editor: **Laura N. Gasaway** (Director of the Law Library & Professor of Law, University of North Carolina, CB #3385, Chapel Hill, NC 27599; Phone: 919-962-1321; Fax: 919-962-1193) <laura_gasaway@unc.edu> www.unc.edu/~unclng/gasaway.htm

QUESTION: *When staff members ask the librarian to email a pdf file to a friend or colleague, is this a problem or may they do whatever they would do with paper?*

Answer: It depends on the source of the pdf file. If the library owns the subscription to the print version of the journal, and the request is for a single article from a journal issue, then section 108(d) of the Act applies. A library is permitted to reproduce a copy for a patron. If the library subscription is to the electronic version of the journal, then the license agreement controls whether sending a pdf copy to a friend or a staff member is permitted. The license agreement may well restrict access to the full-text articles to staff members of the organization and not permit sharing the article outside of the company.

QUESTION: *More and more often the library is also being asked to reproduce a whole journal for document delivery. Is there any reason not to do this?*

Answer: There certainly are reasons not to reproduce entire journal issues for document delivery. The first problem is what is meant by "document delivery." Does this mean delivery of copies to primary patrons who are part of the same organization? Again, if the journal issue is a printed journal, and the library does not have a CCC photocopy license, then the library may reproduce only one article from the journal issue to deliver to a patron. If the journal subscription is electronic, the license agreement prevails and controls whether copying entire issues for persons covered under the agreement is permitted under the license.

QUESTION: *The library's copy of a certain video is on faculty reserve and it is required viewing. Because the tape has been used so much it is now in bad shape. The producer of the tape is no longer in business. The Information Technology staff is willing to digitize it so it can be streamed for viewing. Meanwhile, some enterprising member of the staff checked on the Web and found that another university library had already done this. If a video can be digitized, rather than load it onto a server, could the library instead burn it onto a DVD, which it could then check out?*

Answer: The good news is that there now is a way to reproduce the tape, but the bad news is that the reproduced copy, if it is digital, has restrictions on where it may be used. Section 108(c) of the Copyright Act permits duplicating works after first trying to purchase a new VHS copy. It even allows a library to convert the format and create a digital copy if no unused copy is available for acquisition. There are restrictions, however. The digital copy may not be used outside the premises of the library. Unfortunately, a DVD copy is also a digital copy and thus would be restricted to in-library use only. So, it could not be checked out to patrons

to take home to view. It could, however, be checked out for viewing within the library.

Streaming technology does not permit students or other users to copy the work but only to see the work being performed.

QUESTION: *The corporate library currently reports to the Copyright Clearance Center through the Transactional Reporting Service (TRS). The CCC recently send a letter stating that any item that is delivered by electronic means must be reported through the Digital Permissions Service (DPS) which provides a different means of reporting and has different prices. Why can the library not use the TRS instead of the DPS?*


Answer: The DPS is the CCC's newest service. It was developed for organizations that want to share materials electronically through email, posting on an intranet or the Internet. The TRS is only for photocopies that are delivered by hand mail or courier or faxes sent through normal fax machines, not e-faxes. The CCC has blanket permission from many publishers for the DPS, but it will also contact an individual rightsholder for a library to seek permission for a particular request.

The royalties for digital copying and distribution are established by the copyright holder, and they generally are higher than the royalties for photocopying. In addition to royalties, the CCC charges a \$3.00 processing

fee per request granted.

QUESTION: *Is it necessary to password protect course Webpages, Blackboard pages, etc., or can they be accessed by anyone?*

Answer: It depends on the contents of the Webpage or the course management software page. If copies of copyrighted works, even portions of such works, are included on Webpages without permission of the copyright holder, access to this material should be restricted to members of the class. If the copyrighted material consists of articles, book chapters, etc., placing them on the Web or in Blackboard, etc., for students to use should conform to fair use under the guidelines for multiple copying for classroom use. Only one copy to each student in the class may be distributed. Thus, passwords or other methods or restricting access to students enrolled in the class should be adopted.

If the copyrighted material consists of material that is performed or displayed to students under the TEACH Act, the exemption also requires that access to the material be restricted to students enrolled in the course. For either type of material, only the portions of the Website that contain these copyrighted works must be restricted. Should the faculty member so desire, other portions of the course Webpages may be open to anyone. 



Charleston Brain-teaser

supplied by **Daryl Rayner** (Marketing Director, xrefer; Phone: +44 (0) 20 7479 9204; Fax: +44 (0) 20 7479 9212) <daryl@xrefer.com>
www.xrefer.com www.xreferplus.com

1. Which fort in the harbor of Charleston was bombarded in April 1861, beginning the American Civil War?
 2. In which decade did the dance called the "Charleston" first become popular?
 3. During which war did British troops capture a 5,400-strong garrison at Charleston in 1780?
 4. Charleston is also the name of the capital of which U.S. state?
 5. Charleston is situated between which two rivers?
 6. Name the hurricane which badly damaged Charleston in 1989.
 7. Which 1935 opera by George and Ira Gershwin is set in "Catfish Row" in Charleston?
 8. What name is given to the local dialect of English spoken in Charleston?
 9. Which famous song was revived as a protest song in 1946 by black tobacco workers on a picket line in Charleston?
 10. Was the population of Charleston in 1992 about 60,000, 80,000 or 120,000?
- To search for the answers go to: <http://www.xreferplus.com>. Username: charleston. Password: library. 