

COPY RIGHT ISSUES IN ELECTRONIC INFORMATION DELIVERY: AN ANALYSIS IN THE CONTEXT OF LIBRARY PRACTICES

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Abstract

Copyright is an important issue in library and information services. The copyright envisages protecting the right of the creator of the work and at the same time encourages further addition of knowledge by academic and research programmes. Electronic information delivery services help the libraries to effectively satisfy their users. The paper discusses library practices that can be adopted to meet the information needs of the users without infringing the copyright regulations.

Keywords:- Library services; Electronic resources; Copyright issues; Electronic document delivery; Utilization of electronic information; Library education courses

Introduction

Copyright is always an important and burning issue, whether it is in olden days or in the modern digital era. The creators of the works or most probably the commercial or publisher groups behind the development of the works in one side and the users of the works in other side were usually arguing to protect their interests. Most of the world's information and knowledge resources were developed or controlled by the advanced nations like USA and European countries. Though the under developed and developing nations are spending huge amount for acquiring the information and knowledge resources, the academicians and researchers in these countries are really starving to get the required information in right time. Even though the copyright regulations have several restrictions in the commercial or mass duplication of documents, the electronic information delivery system has provided new platform for the librarians to effectively satisfy their users without causing copyright infringement.

Copyright

Copyright is the rights given by the law to the creators of literary, dramatic, musical and artistic works and the producers of cinematograph films and sound recordings. These include the rights of reproduction or re-production of the work, delivery of the work to the public, revision or alteration of the work and translation of the work. The scope and duration of protection provided under different copyright laws vary with the nature of the work.

E-Resources

According to the International Federation of Library Associations and Institutions (IFLA), "Electronic resources" refer to those materials that require computer access, whether through a personal computer, mainframe, or handheld mobile device. They may either be accessed remotely via internet or locally. Some of the most frequently encountered types are: e-journals, e-books, full-text databases, indexing and abstracting databases, reference databases like biographies, dictionaries, directories, encyclopaedias, etc., numeric and statistical databases, e-images and e-audio/visual resources. (IFLA, 2012).

All copyright laws provide adequate protection to the creators of the works. At the same time, provisions for copying the document for academic and research purposes are enshrined in almost all copyright laws throughout the world. However, copyright exceptions have a problematic relationship with technology, whether it is even for simple photocopying or digital copying. Most of the laws specifically made it clear that copying for educational purposes is permitted. But, the duplication process should not be misused or not to be resorted for commercial or mass production of the work. Though the widespread availability of modern digital technologies like, computers, scanners, internet,

etc. are used for the duplication and electronic delivery of the documents for educational and research requirements, it should not be at the infringement of the right of the creator. However, the inexpensive desktop scanner and digital copying that many people now own even in their homes can create digital copies of protected works quickly and efficiently without permission.

Indian Copyright Act, 1957

Section 52(1)(a) of the Indian Copyright Act allows for fair dealing with respect to any work (except a computer programme), and fair dealing is not restricted to literary, dramatic, musical or artistic works other than computer programmes as was the case earlier. The purposes for which fair dealing is permissible has also been 'expanded' although the expansion may not actually bring in any substantive change from a practical point of view. The latest amendment of the Act was made in the year 2012. (Indian Copyright Act, 1957).

Copyright and Fair use

The principle of 'Fair Use' implies the copying and use of information and knowledge resources for academic and research requirements, which are the uses not meant for commercial purposes. The Delhi High Court (2016) in a recent judgement states that copyright is not an inevitable, divine, or natural right that confers on authors the absolute ownership of their creations. It is designed rather to stimulate activity and progress in the arts for the intellectual enrichment of the public. The right is intended to increase and not to impede the harvest of knowledge. It is targeted to motivate the creative activity of authors and inventors in order to benefit the public.

The verdict says that photocopying portions of academic publications to make course packs for students does not amount to copyright infringement. This has been interpreted by many as a victory for the wider public interest of ensuring inexpensive access to quality educational material. The key point that arose in the suit filed by Oxford University Press, Cambridge University Press and Taylor & Francis was whether the making of course packs by the Delhi University by authorising a photocopying store to make numerous copies of course material drawn from different books amounts to copyright infringement. The court says copyright is not a natural or common law right in India, but is subject to statute. It proceeds to hold that photocopying for academic purposes is not an infringement as Section 52(1)(i) of the Copyright Act permits the making of copies of literary works by a teacher or pupil 'in the course of instruction', a phrase interpreted to cover whole academic sessions, from the preparation of syllabus onwards.

Though the publishers have argued that universities should not allow unrestricted photocopying, the judge finds 'no infringement' clauses as being consistent with articles in the Berne Convention and the Agreement on Trade-Related Aspects of Intellectual Property Rights, which provide for domestic legislation to permit reproductions for specific purposes, as long as they do not conflict with normal exploitation of the works or unreasonably prejudice the rights-holder.

The verdict reserves the right to the publishers to pursue in their appeal, the concern on unrestricted reprographic rights on academic institutions. Since the international academic publications are expensive, the academics find it difficult to access these publications. Hence, the court would like to maintain a balance between the protection of interests of publishers and the public interest permitting fair use of the information resources for education and research. (The Hindu, 2016).

Electronic Document Delivery and Libraries

Copying the content of the documents in digital formats like Portable Document Format (PDF) made the process of copying and exchange of the documents simpler and leads to no degradation of quality from the original file. The advent of the high speed digital communication systems and internet have really facilitated the just in time delivery of documents, irrespective of the boundaries of the countries. Commonly adopted remote access mode of online resources is "IP authentication" for the

entire institution, including simultaneous access for multiple users, in different geographic locations, sites and the "User name and password" based access.

Unlike print publications, electronic resources are not purchased outright and usually require a license agreement to be in place. Acquisition of resources in print format will ensure the availability of such documents in the library. Many times the perpetual access offered by publishers and vendors requires further purchase of some books or journals or payment of some access fee in future years. That means, the clause of perpetual access may not work practically, if the library was not able to find some fund in coming years. So, the access provisions for perpetual mode of acquisition need to be refined in order to safeguard the future access of electronic documents. So, the licensing and access considerations for electronic resources in libraries are a complicated issue. The license clauses should be reviewed to inform and support the evaluation process, and to ensure that it reflects the selector's expectations prior to purchase in line with information gathered and assessed to date.

The license should permit fair use of all information for educational, instructional and research purposes. The license should permit individual as well as consortium or interlibrary loan uses either by facsimile transmission or postal dispatch of photocopies or electronic delivery of documents.

IFLA suggests forming standard model license agreement that describes the rights of the library. In some countries such as the United States, new approaches (e.g. SERU – A Shared Electronic Resource Understanding, which relies on existing U.S. copyright Law and a mutual agreement between resource provider and library to operate within a framework of shared understanding and good faith) are emerging as an alternative to a license agreement. (IFLA, 2012).

Consortia based Library Services

Consortia based acquisition of e-books, journals and databases can shed the responsibility to a team of experts consisting of librarians, users, financial and legal personnel etc. But, presently in India, most of the e-resources accessed through consortia like UGC-INFONET, ICAR-CeRA etc. are accessible only to university campuses, not to the affiliated colleges. At the same time, as a large majority (that is more than 80%) of students, teachers and researchers in higher education in India are in colleges, not in universities, the present situation denies the access and delivery of knowledge resources to the colleges. As per the UGC Scheme, the qualifications and salary of the teachers in colleges and universities are same. Due to limited provision for delivery of information to the colleges, the teachers and students are forced to base their education and research on available information resources. The following table shows the distribution pattern of students, teachers and researchers in higher education in India (UGC, 2015):

Table 1: Universities/University level Institutions and Colleges in India as on 31.03.2015 (Source: UGC Annual Report 2014-15)

Sl. No.	Type of Institutions	No. of Institutions as on 31.03.2015
1	Central Universities	46
2	State Universities	329
3	State Private Universities	205
4	Institutions established through State Legislation	03
5	Institutions Deemed to be Universities	128
	Total	711
6	Colleges	40760

Table 2: Student Enrolment in Universities and Colleges in India during 2010-15(Source: UGC Annual Report 2014-15)

Sl. No.	Period	Total No. of Students enrolled
1	2010-11	18670050
2	2011-12	20327478
3	2012-13	22302938
4	2013-14	23764960
5	2014-15	26585437

The UGC (2015) source reveals that, in the academic year 2014-2015, the total number of teachers in universities and colleges was 12.61 lakhs. Out of this, 84.66% (1067828) teachers were in Colleges and the remaining 15.34% (193522) only were in University Departments / University Colleges. The UGC (2016) Annual Report 2015-16 shows that about 90.30% of all the under-graduate students and 66.58% of all post-graduate students have been in the affiliated colleges. At the same time, 90.73% of research students were in universities.

Open Access Movement

The academic community and publishing system is moving fast towards open access. Several digital libraries, institutional repositories and databases have emerged declaring the advent of future revolution of open access movement. Shift from the practice of 'paid subscription' to 'paid publishing' have given another impetus to the open access movement. Here, the copyright restrictions will be further alleviated towards the benefit of the users and service efficiency of the libraries. The libraries should be able to adopt such changes in their, acquisition modes, in-house-operations, service delivery systems, user education and training, etc.

Quality Approach towards Information Marketing

Availability of high quality products and services is the foremost consideration for any successful marketing. Electronic Document Delivery provides new vistas of service efficiency for the libraries of the modern world. Under the protection of educational copying for fair use and making material available via a learning platform, students, teachers and researchers have the right to get a copy of any knowledge resource. But, lack of administrative and professional leadership in library systems coupled with inefficient service procedure and de-motivated staff, creates hurdles in delivering knowledge resources to the users. Under-estimation by the users on the role that can be played by the librarians in academic and research programmes also tend to keep distance by the users from the libraries. Over confidence of the users on internet and digital technologies is misleading them to think that there is no need for libraries and librarians in the modern era. In these circumstances, the library professionals should be able to assess the re-defined roles they can play in the ever changing technological era. Institutional repositories, digital libraries, web OPACs, web-based services, customised information and document delivery services, education and guidance for literature search, universal bibliographical control, plagiarism control and high impact publishing, etc. are some of the highly needed facilities and services the users will acclaim. The divine spirit of service supported by technological updation, professional enthusiasm and leadership will remove the hurdles, if any created by copyright regulations.

Library Education and User Training

Though the digital revolution ensures augmented accessibility of information resources, it is doubtful whether the academic community would be able to reap maximum benefit out of this. One of the reasons towards this doubt is the low level of user awareness and education on digital resources and its retrieval and use. Many academic institutions are failing in imparting adequate library education and training to students, teachers and researchers. Less teaching and training skill of the library

professionals, confused awareness of the administrators on the role of libraries in digital era, etc. are some other reasons stand in the way. A curriculum based “Library Education Course” in the line that is being offered for the Postgraduate and Ph.D Courses of all agricultural universities in India is found to be highly beneficial to the academic and research community. Nomenclature of this course is: “Library and Information Services” (0+1 Credit Course). That means, two hours of practical class per week will be provided to the students for one semester, preferably in the first semester. This course familiarizes students with the library procedures and services, databases, intricacies of information retrieval and search tools, bibliographical control, copyright regulations, plagiarism, technical writing, academic publishing, etc. Assignments – mid-term / final and viva-voce examinations, etc. will be held as a part of this course as all other courses.

Conclusion

Though there are strict regulations in copyright laws to protect the rights of authors and persons responsible for the development of knowledge resources, from the analysis, it is evident that these regulations are not limiting the libraries in providing services to our clientele for academic and research needs. The digital and open access revolution is found to be enormously supportive to deliver the knowledge resources to the user community. Consortia and network based document delivery is an important mechanism to bridge the knowledge divide, especially in the situation faced by the academic community in colleges. Curriculum based library education courses coupled with good technical and teaching competency of the library professionals are proved to be highly beneficial in equipping the students and teachers on library and information retrieval, bibliographic control, literature search, plagiarism control and publishing.

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