CHAPTER ELEVEN

WORKING FOR A RESEARCH–FRIENDLY IPR FRAMEWORK IN THE UK

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INTRODUCTION

Research institutions and individual researchers in many countries are facing intellectual property issues which are changing the way in which the results of research are disseminated, how those results are used and by whom, and how current research feeds into future research. Some of the key questions which will be determined in part at least by intellectual property issues are:

- □ access: will the text and data in research papers be accessible and under what licensing conditions?

- □ publication: how will text and data be published, in journals or held in personal or institutional repositories?

- □ ownership: will authors, employers, funders or publishers claim ownership of text and/or data?

- □ re-use: will owners restrict re-use, even for academic purposes?

- □ management: how will text and data silos be managed and by whom?

- □ preservation: how will text and data be preserved and by whom?

These are key questions both for the current generation of researchers and also for future generations whose work may be helped or hindered – even prevented – by decisions being made now. The benefits flowing

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from today's biomedical research would be impossible to achieve without the strong action taken by the research community a few years ago in opening the Human Genome Database for use without restriction. The commercial forces which almost locked away the genome data could lock away equally valuable research results in the future if the academic community does not ensure that appropriate intellectual property rights remain within the academic community. When commercial interests control rights in content generated within the academic sector, it is sometimes due to academic neglect of IPR issues. The work described in this chapter is informing the UK academic community of possibilities for the good management of research text and data.

THE UK JOINT INFORMATION SYSTEMS COMMITTEE

The UK Joint Information Systems Committee is addressing all of these issues as part of its role in providing guidance to UK universities and colleges on the changes taking place in the networked information environment. The JISC (Joint Information Systems Committee) is a sub-committee of the Higher Education Funding Council for England and the higher and further education funding councils in Scotland, Wales and Northern Ireland. JISC's activities support education and research by promoting innovation in new technologies and by the central support of ICT services. The JISC provides a world-class network (JANET, the Joint Academic Network), access to purchased and public-domain electronic resources, and projects to develop new environments for learning, teaching and research.

At almost every point in the JISC's activities, IPR issues have to be considered, and many of these issues are identical to or closely-related to the IPR issues UK universities are themselves facing in managing networked information. In order to find ways forward through some of the IPR issues UK universities and the JISC itself faces, a range of services and mechanisms have been developed. These include:

□   JISC Legal: an information service for UK universities;[2]

□   A dedicated IPR consultancy to provide expert advice to the JISC Development Group and its projects;[3]

□   A specific Legal and Policy Cluster as part of the JISC Repositories Programme to encourage the sharing of IPR issues amongst projects;

□   Collaboration with DEST in Australia and SURF in the Netherlands to share experience in exploring academic-related IPR issues.

Through these mechanisms the JISC is able to investigate the applicability of new IPR models such as Creative Commons and also design tools such as licence registries to support the rights management process. In parallel to this work the JISC Collections team negotiate academic-friendly licensing agreements as part of JISC's content activities, e.g. the right to make copies for preservation, using standardised rights expressions and model licences to help the use of content within the sector.

JISC IPR PROJECTS

The JISC funds many projects under various Programmes[4] in order to assist UK universities in the introduction of new environments for learning, teaching and research. Virtually every project has to address IPR issues in respect of the project's own content and content that may be used if the project develops into a service. A project's experience in addressing IPR issues is invariably included as part of the project's final report, made available on the JISC web-site so that the UK academic community may benefit from the experience gained in the project.

In addition the JISC has commissioned a number of projects specifically to address IPR questions important in the academic sector. A selection of such specific IPR projects is:

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[2] JSIC, *JISC Legal* <http://www.jisclegal.ac.uk/>.

[3] JSIC, *IPR consultancy* <http://www.jisc.ac.uk/whatwedo/projects/ipr/iprconsultancy. aspx>.

[4] A full list of JISC Programmes is available at
<http://www.jisc.ac.uk/whatwedo/programmes.aspx>.

- The Intrallect DRM study completed in 2004, which revealed more interest in rights management from the teaching and learning community than from the research community;[5]

- The Rights and Rewards Project 2005–07, covering arrangements for repository deposit, balancing academic rewards from deposit with academic concern about loss of control over content;[6]

- The Copyright Knowledge Bank (part of ongoing JISC/SURF Partnering on Copyright), which aims to develop the SHERPA/RoMEO database as a tool for authors in retaining rights and for universities in developing repositories;[7]

- The JISC/SURF Licence to Publish (developed in 2006 and supported by ongoing advocacy), a Licence which is part of the JISC/SURF Copyright Toolbox and which was created to provide a model text authors to use instead of copyright assignment;[8]

- The Trust DR project, looking specifically at institutions' DRM systems for learning objects held in repositories.[9]

A common feature of the IPR services and projects funded by the JISC is that the JISC is placing an emphasis upon practical measures to effect cultural change. Respect for copyright is a strong feature of the JISC's policy, but some of the copyright structures suitable in a print environment do not fit well in a networked information environment. The adoption of new practices and structures may require cultural

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[5] Intrallect Ltd on behalf of JSIC, *Digital Rights Management – Final Report* (2004) <http://www.intrallect.com/drm-study/>.

[6] The Rights and Rewards Project <http://rightsandrewards.lboro.ac.uk/>.

[7] JISC/SURF Partnering on Copyright, *Copyright Knowledge Bank* <http://www.lboro.ac.uk /departments/ls/disresearch/poc/pages/knowledgebank.html>.

[8] JISC/SURF Copyright Toolbox, *Licence to publish* <http://copyrighttoolbox.surf.nl/ copyrighttoolbox/authors/licence/>.

[9] Trust DR <http://trustdr.ulster.ac.uk/>.

changes within the academic community in the community's attitude towards IPR issues.

JISC AND THE MANAGEMENT OF DATA

Many academic members of JISC Committees during the past year or two have mentioned the increasing importance of access to research data. The research information landscape is changing, and while text is still the common medium of communication in many subject areas, data and images are becoming of primary importance in other disciplines. The JISC has recognised this trend in its strategic documents.

The 'JISC Strategy 2007–2009'[10] contains as Key Aim 3: 'To promote the development, uptake and effective use of ICT to support research',[11] and a Key Deliverable within this Key Aim is 'in collaboration with the Research Councils [to] provide a robust, trustworthy, secure, interoperable and scalable infrastructure for the transmission, storage, sharing, accessibility and dissemination of research data and outputs'.[12] This is a very strong strategic commitment to data provision. JISC recognises that access to and re-use of data is as important to the research community as access to and re-use of text. Legal issues are appearing regularly as JISC undertakes activities in fulfilment of this Key Deliverable.

As the JISC Executive looks to fulfil this strategic commitment, it is not surprising that many JISC-funded projects are about the management of data. A few examples are:

    ▫   The DCC SCARP Project is investigating different disciplinary approaches to data deposit, sharing and re-use, curation and preservation;[13]

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[10] JISC, *JISC Strategy 2007–2009* (2007) <http://www.jisc.ac.uk/media/documents/ about_us/strategy/jisc_strategy_2007–2009.pdf>.

[11] JISC, *JISC Strategy 2007–2009* (2007) 15 <http://www.jisc.ac.uk/media/documents/ about_us/strategy/jisc_strategy_2007–2009.pdf>.

[12] JISC, *JISC Strategy 2007–2009* (2007) <http://www.jisc.ac.uk/media/documents/ about_us/strategy/jisc_strategy_2007–2009.pdf>.

[13] DCC Scarp Project <www.dcc.ac.uk/scarp/>.

▫   The GRADE Project is investigating the technical and
    cultural issues around the re-use of geospatial data and
    facing up to real IPR issues;[14]

▫   The SPECTRa Project has been investigating
    arrangements for the deposit of chemistry data in
    repositories and amongst the findings is that 'IPR issues
    relating to the ownership and re-use of scientific data
    are complex';[15]

▫   The StORe Project has developed a demonstrator for
    linking source and output data repositories to enable the
    flow of data from workbench into publications;[16]

▫   The *International Study on the Impact of Copyright Law on
    Digital Preservation* is UK contribution to a collective
    study by four international organisations;

▫   The JISC IPR Consultancy has made available a paper
    on *IPR and Licensing issues in Derived Data* by Naomi
    Korn, Charles Oppenheim and Charles Duncan.[17]

Various aspects of data management are being explored by these and
other projects. It is clear, for example, that any new arrangements for
access to and re-use of data, even in an open access environment, will
have to take into account differing disciplinary attitudes towards the
sharing of data. A reality of the data situation is also that access to
research data is not always within the control of the academic
community and may involve partnership with commercial interests. In
this complex environment researchers need guidance from their
employers and funders on IPR issues in relation to data. In order that
research can be conducted efficiently a workflow approach to data

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[14] See for example: GRADE, *Scoping a Geospatial Repository for Academic Deposit and Extraction*
(2007) <http://edina.ac.uk/projects/grade/gradeDigitalRightsIssues.pdf>.

[15] JISC, *Project SPECTRa: Submission, Preservation and Exposure of Chemistry Teaching and Research
Data* (March 2007, Final Report) <http://www.lib.cam.ac.uk/spectra/
FinalReport.html>.

[16] StORe <http://jiscstore.jot.com/WikiHome>.

[17] Naomi Korn, Charles Oppenheim and Charles Duncan, *IPR and Licensing issues in Derived Data*
(2007) <http://www.jisc.ac.uk/media/documents/projects/iprinderiveddatareport.
pdf>.

access is needed but IPR conditions will need to follow the data as it travels through the process.

CONCLUSION

At present no clear answers are available to any of the questions set out in the Introduction to this chapter. The issues are complex, involve a mix of stakeholders with different priorities and concerns, and cannot be resolved by one country acting alone. Collaboration between stakeholders in various countries will be necessary in helping the research community find the answers it needs in order to work efficiently and cost-effectively. A research-friendly IPR framework will be essential to achieve this successful outcome. As part of this international effort the JISC is working to ensure research-friendly arrangements for access to and re-use of data and text produced by the UK research community.