

Copyright Ownership Policy Working Group March 27, 2014 Conference Call Notes

Participants: Jan Carmikle, Sherylle Mills Englander, Kat Fibiger, Joanne Miller, Eugene Volokh, Martha Winnacker

Absent: Brian Kolner, Jim Whitehead

Meeting Notes

Sherylle Mills Englander distributed a list of examples of copyrighted works that she had collected from the campus tech transfer directors. The spreadsheet shows copyrighted works that have generated revenue for UC.

Kat Fibiger has additional examples of revenue-generating copyrighted materials that are not software. Several are curricula.

Some key issues arose in discussion about trying to distinguish software from other “scholarly/aesthetic” works:

- It can be difficult to draw a line between software and non-software. One example is certain artworks. Textbooks can include software.
- Textbooks are an example of works that can be lucrative for authors. There is generally no controversy surrounding copyright ownership of textbooks, which are owned by the faculty and *not* seen as essential for promotion & tenure.
- It is also difficult to differentiate software copyrights that “act more like patents” from other types of software.

It was noted that it might be useful to find out UC’s intention with regard to copyrights and revenue. Is the income stream for supporting the mission of the University, supporting faculty, encouraging faculty to create things for the public good...?

Does the university want *control* or merely a portion of the proceeds? If UC is only interested in financial gain, there can be an arrangement that gives exclusive rights to the creator as long as revenue is shared. Look at ownership or a revenue stream as a return on investment by the university (the notion of “exceptional university resources”).

Other questions/issues that arose during discussion:

- The example of a faculty member or assistant working in a lab that is supposed to create commercializable material; but some workers may produce non-practical products.
- What about incidental software creation, such as a tool that is developed along the way to the final product? Sometimes grants do not specify (but they should).
- What about using exceptional university resources? Would a solid definition of “exceptional university resources” solve the problem?
- Sponsored or grant-funded work exceptions create a problem with the humanities; the university generally doesn’t want to interfere in those copyrights.
- An on-campus educational campaign would be useful in letting faculty know that the university can disseminate their work more broadly and have wider reach than one individual.

The policy and process should be the same on all campuses. Right now, decisions are being made differently on the local level... It is recommended that tech transfer people share best practices at upcoming IP meeting and figure out what to do internally.

Next steps:

- Sherylle will attempt to work out the various threads from the discussion and draft a white paper about what position the group will take.
- The draft white paper will be distributed to the Working Group members.
- The next meeting will be scheduled upon completion of the draft paper.