

SLASIAC Standing Subcommittee on Copyright Policy (SSCP)
August 28, 2014
10:00 – 12:15

Attending:	Mario Biagioli, Karen Butter, Katie Fortney, Robin Garrell, Rita Hao, Angus MacDonald, Brian Schottlaender (for Sandra Brown), Wendy Streitz, Martha Winnacker (consultant), Joanne Miller (staff)
Participating by phone:	James Frew, Jim Phillips

Meeting Notes

1. Revision of UC Policy on Copyright and Fair Use, Formal Review Analysis and Next Steps.

The group agreed that a limited statement defending the principle of fair use was the way to go, but to further clarify that the “procedures” (on the UC Copyright Website) are directly associated with the policy. The policy should state more explicitly that the UC Copyright Website provides **guidance** on the implementation of fair use at UC. E.g., “Here’s where you go to find the guidelines,” with a direct link to an informational page on the website.

The cover letter should explain that the purpose of the policy is to establish a baseline principle in defense of fair use, and that the details may change over time. Therefore, the guidance on how to work within fair use is more appropriate for a web site, which can be changed quickly, rather than a policy, which can take years to amend.

The policy should state clearly that UC **will** defend work that falls within scope of employment, as long as the faculty made informed and reasonable choices and acted in good faith. The group acknowledged that “informed” was somewhat subjective, but that it could include reading the UC copyright website or that of another institution, consulting librarians or other authorities, and/or using a fair use checklist (available online). The OCG members of the committee agreed that the language was sufficient.

The group also discussed changes for the UC Copyright website, including:

- More FAQs. Use real examples.
- Explicitly state where faculty can go for advice (to librarians as first point of contact, usually).
- Include a fair use “evaluator” tool. (The [Fair Use Evaluator](#) from the American Library Association’s Office of Information Technology Policy is a good one.)
- Add information about *non-text* works.

Actions:

- Make changes to the policy, as discussed and noted above, including some wording changes suggested at the meeting and in the formal review. (Angus and Rita)
- Write a new cover letter explaining the changes and why the policy can’t be prescriptive. (Joanne with input from others)
- Take to SLASIAC on Oct. 2

2. Recommendations on the UC Policy on Copyright Ownership from the UC Copyright Ownership Policy Working Group.

The SSCP was impressed by the report and the amount of work that went into it.

Designated Academic Appointees

The subcommittee supported the first recommendation to expand the scope of employees who own the copyright to their scholarly/aesthetic works. One committee member noted that there might not be universal approval of this idea; within the past couple of years, some senate faculty have been hesitant to support the position that post-docs own the copyright to their scholarly works produced while at UC.

Action: Draft wording to describe who's included in the class of UC employees that own their own copyright, and how (and perhaps when) to exclude represented employees.

Scholarly/Aesthetic Work

The subcommittee agreed with the Report's footnoted suggestion that "scholarly/aesthetic work" be defined in the policy. The current policy says: "A scholarly/aesthetic work is a work originated by a designated academic appointee resulting from independent academic effort."

The University of Michigan's copyright policy was cited as an example of an updated and reasonable policy with a good definition of scholarly work.

From the University of Michigan Policy:

SCHOLARLY WORKS means works authored by FACULTY within the scope of their employment as part of or in connection with their teaching, research, or scholarship. Common examples of SCHOLARLY WORKS include: lecture notes, case examples, course materials, textbooks, works of nonfiction, novels, lyrics, musical compositions/arrangements and recordings, journal articles, scholarly papers, poems, architectural drawings, software, visual works of art, sculpture, and other artistic creations, among others, regardless of the medium in which those works are fixed or disseminated.

<http://spg.umich.edu/policy/601.28>

Action: Draft a working definition of a scholarly/aesthetic work for the UC Copyright Policy.

Automatic Grant Back for Traditional Works

The subcommittee supported the recommendation for automatic grant-back for traditional scholarly/aesthetic works. Some members of the group suggested that in addition, the copyright holder should grant to the university an automatic license for any works created while at UC. Specifically, a royalty-free license for purposes of teaching and research.

The write-up of exact language to use in the policy can be deferred for now.

Clarification regarding use of "university resources"

The subcommittee supported adding a definition of "incidental" university resources to help clarify that the university would not assert copyright over a work for which it had paid the publication charges or

supplied a laboratory or other customary support. The suggestion to use the definition of Exceptional University Resources from the [UC Policy on Ownership of Course Materials](#), with additional description, was accepted.

Action: Draft a definition of incidental university resources.

University Return on Investment

Some members of the subcommittee were not comfortable with the notion of the university receiving an automatic return on its investment in commercially-oriented (or other) works. Members did not want to codify the notion that if UC invests a certain amount of resources into a work (over a given threshold, e.g.) the university then automatically owns the copyright to that work. Contracts that lay out the terms of investment or effort are the best option, but are not always realistic or available. In lieu of an automatic “trigger” for copyright ownership, the notion of *potential* transfer of ownership might be more palatable.

Tech transfer offices bring in revenue into the university, but also serve the university by helping to disseminate the output of faculty. Because the subcommittee reached no consensus on whether to recommend a university return on investment, the group agreed that **further discussion is needed around this issue before it goes to SLASIAC.**

Committee members expressed interest in preventing scholars from “locking in” or privatizing software (e.g., games or other profitable works) in a way that would keep them from a larger audience. There was some discussion about mandating that all works be open access or open source, and the benefits of that. Regardless of whether open source/open access is in the best interests of the university and faculty to make works open, the notion of ownership status remains.

Next steps for Copyright Ownership Policy Recommendations: Continue to discuss the recommendations (a conference call will be scheduled), perform the actions described, and wait for resolution on all of the recommendations before bringing to SLASIAC.