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What You Don't Know About Copyright, but Should



Courtney Perry for The Chronicle

Nancy Sims handles copyright issues at the U. of Minnesota Libraries. "A lot of people don't realize that they themselves are copyright owners," she says.

By Jennifer Howard

If Nancy Sims had to pick one word to describe how researchers, students, and librarians feel about copyright, it would probably be "confused."

A lawyer and a librarian, Ms. Sims is copyright-program librarian at the University of Minnesota Libraries. She's there to help people on campus and beyond—both users and owners of protected material—understand their rights.

"I'm not sure anybody has a very good knowledge" of copyright, she says.

For instance, in a recent informal survey she conducted at the university, only 30 percent or so of the faculty respondents knew the answers to basic questions such as how one gets a copyright and how long it lasts. (Librarians did somewhat better.)

For the multitudes out there who are copyright-confused, here are some pointers Ms. Sims shared with *The Chronicle*.

- If you think you don't own any copyrights, think again. "The one thing that I wish more people asked me questions about is their own copyright ownership." Ms. Sims says.

At the rights sessions she holds for small groups of faculty members, she asks them if they own any copyrights. "I often get more than half the group thinking they don't, which is a fundamental misconception about how copyright law works," she says. "A lot of people don't realize that they themselves are copyright owners."

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Copyright automatically applies to book manuscripts, articles, blog posts, artwork—almost any copyrightable object that people create. That's been the law since the 1976 Copyright Act took effect. "If you draw a picture on a scrap of paper, you actually own a copyright in that picture"—no paperwork required, Ms. Sims says.

- Know your rights when you sign contracts with publishers or others to distribute your work. Who owns a copyright can affect how a work is presented. For instance, an author signs a contract with a scholarly publisher, expecting the book to be published in print; then the publisher decides to issue it as an e-book instead. "And the faculty member, having reasonably expected it was going to be a print book, thinks that they can complain about this," Ms. Sims says.

Many publication contracts sign the copyright over to the publisher—which leaves an author with little or no say over how his or her book is published. So an author should know, before signing a publication contract, what rights are at stake. "Know your rights and know how your negotiations about your rights are actually affecting your goals as a scholar," she says.

- Fair use is complicated—but you can also call on the principle of "classroom use." Ask Ms. Sims for a quick working definition of fair use—when it's OK to use copyrighted material without permission—and she just chuckles. "There is no such thing as a quick working definition of fair use," she says. The shorthand she sometimes uses is that fair use "is the breathing space for freedom of expression within copyright law."

What many faculty members don't realize, she explains, is that "fair use is not the only kind of noninfringing use" available to them. "The really important exemption that I talk to people about is the one called the classroom-use exemption." An instructor teaching students face-to-face in a nonprofit educational setting has a good deal of leeway to show them a lot of copyrighted material. For instance, "you can play a whole movie in class if you fit in the exemption category," Ms. Sims says. "And none of this is fair use."

- Don't be ruled by fear. "Because lots of academic types of fair use are not very well settled in the law, there's room for lawsuits, unfortunately, or at least for complaints," Ms. Sims says.

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Nobody wants to get sued. She urges people—and the institutions they work for—to shift the focus from "Will I get sued if I use this?" to "What is it we want to do, and then how can we do that within copyright law?"

People need to comply with the law, she says, but they should focus first on their research and teaching missions. "A risk-oriented, compliance-oriented mind-set is one of the things that makes fair use smaller and helps us not innovate around copyright law in other ways," Ms. Sims says. She points to the open-courseware movement as an example of the kind of copyright innovation she'd like to see more of.

- Ask for help. And make a difference. "You don't actually have to do this all alone," Ms. Sims says. "Try to develop your own personal knowledge, but also try to make connections with people who have more." If the campus library doesn't have an in-house copyright specialist—although it's increasingly likely to—the general counsel's office may be able to answer questions and offer guidance. Many libraries and other groups have created online guides on copyright, sample contracts, and other useful resources. (See box, above.)

"If you feel like it's all on you and it's really scary and you just want to do the thing that will put you at least legal risk, you don't have much room to shape anything," Ms. Sims says. Instead, learn about copyright, ask questions, tap into other people's expertise, and help move copyright law and policies in a research-friendly direction. "We do have some room to really develop copyright," she says, "so that the copyright that affects our academic lives reflects our academic values."

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Copyright and Fair-Use Guides on the Web

A selection of free online advice for academics

[Best Practices](#), from the American University Center for Social Media

[Copyright and Fair Use](#), from the Stanford University Libraries

[Copyrights and Wrongs](#), from the American Association of University Professors

[The Copyright Crash Course](#), from the University of Texas at Austin

[Copyright Term and the Public Domain in the United States](#), from Cornell University

[A Map of Use Issues](#), from the University of Minnesota

[Public Domain Slider](#), [Section 108 Spinner](#), and [Fair Use Evaluator](#), from the American Library Association

[Tales From the Public Domain: Bound By Law?](#) A comic book from public domain scholars at the Duke University Law School

Compiled Ben Wieder