Copyright Information Management and the University Library: Staffing, Organizational Placement and Authority

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A R T I C L E   I N F O

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A B S T R A C T

Copyright plays a central role in numerous activities within higher education, and educating a university community about copyright law should be a priority, if only to protect the institution from lawsuits. But, based upon a literature review, institutions devote more resources to other intellectual property endeavors and offers an organizational context within which copyright management can be discussed. The following is a very brief overview of each of these literatures, which, in total, illustrates the financial investment large research universities are willing to commit to intellectual property endeavors and offers an organizational context within which copyright management can be discussed.

LITERATURE REVIEW

Despite the pervasiveness of copyright education management issues throughout academe, nothing has been written that addresses the organizational positioning, staffing and implications thereof for this activity. Conversely, much has been written about the implementation of programs and institutional costs related to other intellectual property issues. Three areas in particular dominate the higher education literature: plagiarism, technology transfer and illegal music downloading. The following is a very brief overview of each of these literatures, which, in total, illustrates the financial investment large research universities are willing to commit to intellectual property endeavors and offers an organizational context within which copyright management can be discussed.

PLAGIARISM

Plagiarism has been with us, or at least manifest in the English language, since 1601 “when Ben Jonson described a literary thief as a plagiarist” (Lynch, 2006). As scholarship has moved online, facilitating the copying and pasting of text, the frequency with which students duplicate another person’s work without attribution has increased. According to McCabe – cited in Chao, Wilhelm, and Neureuther (2009) – forty percent of students questioned admitted to copying text from another source, using it in their own work, and not citing the original author. This statistic reflects only those students who understand what plagiarism means and admit to having done it. Many others likely have copied someone else’s work but...
might not have understood that their actions would be considered plagiarism. “For example, although most students understand that quoting someone’s work word for word demands a citation, they seem to be less clear on the need to cite the presentation of someone else’s ideas when the students present them in their own words” (McCabe, Trevino, & Butterfield, 2001, p. 221).

A number of studies have been conducted that explore varying methodologies to curb plagiarism. Landau, Druen, and Arcuri (2002) provided different levels of plagiarism education in the undergraduate classroom, and found that those students given some level of instruction were less likely to plagiarize and were more likely to recognize plagiarism than those who received no instruction. This intervention, however, works only if the student unintentionally copies another’s work; it is ineffectual if the copying is purposeful. Another study explored the correlation between having an honor code in place and the frequency of cheating. According to McCabe et al. (2001) having such a code in place tends to mean that a reduced amount of cheating occurs, but this correlation is no longer as strong as it was in the 1960s.

While the prior two methods consume resources in the form of faculty and administrator time, real dollars are being spent on plagiarism detection software. Implementation of TurnItIn at a major research university can cost around $80,000 annually—an investment in real dollars which appears to be effective. Martin (2005) tracked occurrences of plagiarism over a period of five semesters, announcing at the beginning of each course that he would be submitting student papers to TurnItIn for review. By the third, fourth, and fifth semesters, plagiarism decreased significantly. Martin surmises that students in the second semester class were not convinced that they would be caught, but word got out to the subsequent classes, and students reduced their plagiarism activities accordingly.

TECHNOLOGY TRANSFER

While the higher education literature discusses the commitment of staff time and real dollars to the pursuit of plagiarism, the same literature documents the expenditures for high-level staff positions and the establishment of whole departments to manage technology transfer activities. Technology transfer departments commercialize faculty research and discovery, moving them from the theoretical to the practical. The purpose of such an office is three-fold. According to Geiger and Sa (2008), contributing to the local economy and serving the faculty are the two primary reasons a research university would establish a technology transfer office. Olivas, on the other hand, believes that the potential for commercial gain based upon licensing of patents is the primary reason why such offices are established. “As faculty engage in research with commercial potential and as the number of partnerships [sic] academia-industry grows, university administrators have invested a significant amount of resources in appropriate infrastructure to promote commercialization of research as a means to generate revenues through royalties and licenses” (Olivas, as quoted in Mendoza & Berger, 2005, p. 3). Geiger and Sa agree that income generation is an important function of these offices, but the use of the income is generally to support the office itself, not to generate extra income (p. 3).

Whatever the primary purpose of the technology transfer office, institutional administrators deem them important enough to invest a great deal of resources in them.

Today, most research universities and a growing number of comprehensive institutions have well-developed technology-transfer programs, replete with staffs of licensing professionals (which more than doubled between 1996 and 2005) and a burgeoning array of support elements, including seed-capital funds to support start-up companies, business incubators, and related economic development infrastructure (Powers & Campbell, 2009, p. 43).

Physical structures and administrative overhead for such programs are expensive, but the primary cost for such an operation is attributed to staffing. According to Powers and Campbell (2009), the salaries for professionals employed in these offices range from $60,000 a year to six-figures, as many of the most highly paid employees hold law degrees. The return on investment in most of these offices, however, has not materialized. Heher (2007) notes that the bottom 50% of institutions with technology transfer offices operate at a loss, the middle 45% break even or realize a small profit, and only the top five percent see a large amount of profit.

ILLEGAL MUSIC DOWNLOADING

While institutional support for plagiarism prevention could be interpreted as an investment in perpetuating a moral society, and the development of technology transfer programs would be investing in potential income, the funds spent to prevent illegal music file sharing and downloading is an institution’s attempt to protect themselves from Recording Industry Association of America (RIAA) lawsuits that target college and university students who use institutional networks to illegally download media. To curb this activity, colleges and universities have implemented monitoring of university network traffic to detect high volume activities related to illegal downloading, and they have licensed legal popular music services, both of which are an investment of both dollars and staff time. “Responding to RIAA notices used to be part-time work for one person, said William C. Dougherty, assistant director for systems support at Virginia Tech. ‘Now he’s doing it full time and has an assistant,’ he said. ‘Our attorneys are also involved on almost a daily basis, as am I’” (Rampell, 2008, p. A1). According to Illinois State University, it costs $76 to process a first claim of copyright infringement and $146 for a second (Wada, 2008).

Technology monitoring and content licensing are not the only costs involved in attempting to curb illegal music downloading. Creating an educational program also consumes staff time and resources. Overall “the University of Wisconsin-Madison estimates that through April [2008] it had spent $300,000 on educational efforts, follow-up on notices of infringement and settlement letters, responses to subpoenas, and the like” (Loomis, 2008, p. 3). With the renewal of the Higher Education Opportunity Act Pub. L. no. 110–315, 122 Stat 3079 (2008) (HEOA), which requires institutions that participate in United States federal financial aid programs to have a series of provisions in place to detect and deter illegal file sharing, universities will likely have to expend even more resources to combat unauthorized downloading and dissemination of copyrighted material.

GENERAL COPYRIGHT LITERATURE

The dearth of copyright education management literature does not mean copyright is not discussed in either the higher education or library literature. Quite the opposite, much has been written about copyright and its interpretation and application to higher education (Walther, 1999; Diotallevi, 1999; Lide, 1999; Van Horn, 2002; Alexander & Baird, 2003) and to libraries (Dukelow, 1992; Bielefield & Cheeseman, 1993; Gasaway & Wiant, 1994; Gasaway, 1997; Crews, 2006; Greenhow, Walker, Donnelly, & Cohen, 2007). This literature focuses on the application of copyright law, particularly changes and updates that have occurred, to higher education activities broadly defined. What is missing from this vast literature is any conversation about who should be responsible for copyright information management, including what their education credentials should be, where that activity should organizationally reside, and what responsibilities the individual should have.

This overview of the literature on intellectual property programs within higher education is offered due to the lack of similar literature exploring institutional resource commitments to copyright information management. What this review suggests is that intellectual property
issues are of import to higher education institutions, and that resources exist to support related activities. This paper explores the convergence of copyright management and organizational placement in order to fill this gap in the literature, and offers guidance as to where scarce resources are best invested in order to serve the university most effectively.

**METHODOLOGY AND DATA COLLECTION**

To explore organizational placement of copyright management in the research university, this study applies Henry Mintzberg’s *The Structuring of Organizations: A Synthesis of Research* (1979), as a theoretical framework. Mintzberg’s broad model defines consistent elements within an organization: the strategic apex, or management; the middle line, or middle management; the operating core, or production center; the technostructure, where administrative planning occurs; and the support staff. Mintzberg adapts this centralized, hierarchical organizational structure designed for a manufacturing environment to explain the vagaries of the academic setting, calling it the “professional bureaucracy”. Such an organization relies on highly trained professionals within the operational core, which in the university consists of the faculty and some administrators. The technostructure (planning units) and support units (information technology units, libraries) assist the operational core in fulfilling the institution’s mission. Mintzberg believes that, unlike his manufacturing model, those with the most power in such a decentralized structure are those who are part of the operational core, as they are responsible for fulfilling the primary mission of the organization. Because support units are neither part of the core function nor directly part of the administration in the strategic apex, Mintzberg suggests that they do not have as much authority within the organization. Based upon Mintzberg’s theory, for a unit to have greater authority within a professional bureaucracy, it would need to be directly affiliated with either the operational core or upper administration.

The purposeful sample used in this study consists of the copyright officers employed by the member institutions of the CIC, which at this writing include: University of Chicago, University of Illinois Champagne-Urbana, Indiana University, University of Iowa, University of Michigan, Michigan State University, University of Minnesota, University of Nebraska-Lincoln, Northwestern University, Ohio State University, Pennsylvania State University, Purdue University, and University of Wisconsin-Madison. All CIC-member institutions were part of the sample except Penn State, where I had served as copyright officer. No one had been assigned this responsibility at the time these interviews were conducted. Of the remaining twelve institutions, eleven copyright officers agreed to be interviewed, although information about the organizational placement of the twelfth could be gleaned from the institution’s website. This sample was chosen because all of these universities have the monetary and staff resources to dedicate someone to the job of copyright management. This sample is also fairly homogeneous (all research-intensive), which allows for comparison.

The research method employed when gathering data is the multiple-case study (Yin, 2009). A single case study is defined as “a detailed examination of one setting, or a single subject, a single deposit of documents or one particular event” (Bogdan & Biklen, 2007, p. 59). Multiple-case study employs the same technique, but applies it to multiple cases. For this study each institution was studied individually, and then the results were aggregated to look for patterns. Employing this variation on the single-case design was appropriate because it was the variations within each institution’s copyright management infrastructure which were of interest, not the “rare” or “critical” case.

Data for this study was collected two different ways. In order to find the person or department responsible for copyright management, I first searched the web site of each institution. Conducting a search for “copyright management” at the university’s home page led me, either immediately or after further searching, to a contact. If the person contacted was not the appropriate person to participate in this study, they referred me to someone who was. Once the appropriate people were located, each was interviewed, their comments recorded, and the interviews transcribed for further analysis. The questions asked during these semi-structured interviews, and which are also the research questions guiding this study, were:

1. Who is responsible for copyright education, where is that person organizationally placed, and what credentials does that individual hold?
2. What are their responsibilities?
3. Does this individual have enough resources to do her job?
4. Is the organizational placement appropriate in providing this individual and their department a needed level of perceived authority on campus?
5. What should the ideal copyright management structure be?

All participants were given the option to not respond to any question posed, and were also permitted to end the interview at any time.

In order to encourage frank discussion, I have maintained the anonymity of the university and the individuals who agreed to be interviewed. Also, because titles and department names can differentiate locations, generalized terms are used. Most notably, all participants will be referred to as copyright officers or COs. Also, for ease and additional identity masking, all interviewees will be identified as female rather than with gender-accurate pronouns. The Office for Research Protection at Penn State approved this study, and each participant signed an informed consent document and had the opportunity to review her interview transcript.

**LIMITATIONS AND VALIDITY ISSUES**

There are limitations to this research design, and validity issues with the results that need to be address up front. The small size of the sample group and their overall homogeneity limits the ability to generalize from the results of this study to other types of colleges or universities. Another concern is the possibility that I might misinterpret the data, which is a common validity issue in qualitative research. Because I held the position of copyright librarian at Penn State, I have had extensive exposure to the issues being investigated, and I could, potentially, allow that experience to bias my interpretation of the data. Being aware of these validity issues and continually questioning my own reading of the data was critical to prevent personal bias from shaping the results.

**INTERVIEW RESULTS**

**ORGANIZATIONAL PLACEMENT AND COPYRIGHT MANAGEMENT**

The copyright officers interviewed were asked where in their organization they were located. Currently almost all primary copyright management information activities in the CIC are found within a university library administrative unit. One reason this might have occurred is because librarians tend to be more aware of copyright law. I think because librarians are much closer to the issue, and so there is a lot more discussion about copyright issues in libraries, and we deal with it in so many different ways. That’s why I think it ends up here. On campus as a whole, unless there is a general counsel’s office, they are discussing it, but not as units, as departments, or anything like that, whereas I think in libraries we do tend to talk more about it (CO 1).

Another copyright officer stated that the library is a “place for answers,” which is why copyright information management in the library makes sense. Faculty and students come to the library for...
information related to other areas; copyright is just another topic, and
the library is the place to go in order to explore new areas of knowledge.
This perspective – that the library is a neutral place where people can ob-
tain help and guidance – remains when the copyright officers were asked if
another administrative unit on campus would be more appropriate.

Some copyright officers, when asked if there might be another unit
on campus that would lend her more authority, believe that they
would have more authority if their office were located either under a
general counsel’s umbrella or in the provost’s office. Conversely, the
only other person to indicate that their organizational placement
could be improved upon is the copyright officer who is in the general
counsel’s office. She believes that she currently has too many respon-
sibilities to give copyright the attention it should have. When asked if a
copyright office would have a higher level of legitimacy in the library
or in the provost’s office, she replied, “I think it would need to be outside
the library. Probably needs to be in the provost’s office.” All other
participants who responded to this question iterated that the library is
most appropriate because of existing copyright knowledge, work in
scholarly communications, and a welcoming environment that encour-
gages people to ask questions.

Location of copyright management program.

<table>
<thead>
<tr>
<th>University library</th>
<th>10</th>
</tr>
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<tbody>
<tr>
<td>Office of General Counsel</td>
<td>2</td>
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</table>

To whom does the copyright officer report?

| Associate University Librarian | 5 |
| Split reporting structure—Associate University Librarian and Dean of the Library | 2 |
| Split reporting structure—Dean of the Library and University President | 1 |
| Dean of the Library | 1 |
| Vice President and General Counsel | 1 |
| Head of Public Services—University Library | 1 |

What would be the ideal organizational placement of a copyright management program?

| Office of General Counsel (if one exists) | 1 |
| Provost’s Office | 3, or 2 if an Office of General Counsel exists* |
| Library | 6 |
| Did not respond or not applicable | 2 |

*The respondent who provided this answer would have preferred that the copyright officer be located in the General Counsel’s office. But, if such an office did not exist, her second choice would be to have the copyright office located under the Provost.

POSITION RESPONSIBILITIES

When asked to describe their responsibilities as related to copyright
information management, the copyright officers’ responses varied, but
not greatly. Components of the job description for a copyright officer
would consist of: consulting with members of the educational community
on copyright-related issues; educating the community through programming of various types; creating and implementing policy related to copyright; and advocating for the application of copyright law that supports teaching, learning and research. All copyright officers had some level of responsibility for consulting, either at the individual or group level, on specific copyright questions. Offering guidance on use of copyrighted content in courses and publications was the most frequently noted activity.

Education, in group settings rather than at the individual level, was
also common. Only one respondent indicated that she did little of this
because of broader intellectual property responsibilities. Education con-
sists of teaching scheduled, public programs on general copyright
topics, as well as sessions tailored to the specific needs of a requesting
unit. One copyright officer noted her responsibility to maintain and
update her institution’s copyright information website, another educa-
tional tool made available to her constituents.

Assisting in the establishment of copyright policy or practice
based upon institutional interpretation of copyright was another fre-
frequently cited responsibility. Whether as an individual or as part of
a committee, most copyright officers have some input into general
and specific directions their institutions take in implementing the
law based upon new court rulings and best practices.

The final responsibility which was common among almost all re-
spondents was the need to advocate for the broadest, most liberal de-
finite of copyright in order to support teaching, learning and research
on each of their campuses. The definition of advocacy, however, differed
widely. Some individuals believe that it means intentionally and aggres-
sively challenging the current status of copyright law—a statement iter-
ated primarily by those copyright officers who also held positions
related to scholarly communications. Others believe that it means liber-
ally interpreting Fair Use in particular, but not to the extent that might
result in placing their institution at risk.1

RESOURCES

As documented in the literature review, universities expend a
great deal of resources on both technology transfer and network se-
curity issues. The same cannot be said for copyright management, as
these interviews suggest, yet lack of additional fiscal or staffing re-
sources is not necessarily a hindrance. When asked specifically
about staffing resources to assist with copyright issues, the responses
varied widely. At the most one additional full-time person is assigned
to assist in copyright-related responsibilities. Others have a post MLS
fellow position, staff shared with other units, half time professional or
staff help, or no help at all. Those copyright officers who indicated that
fiscal resources were lacking were primarily referring to their
own salaries, as reflected in the next section.

Do you have enough staffing/fiscal support to do your job?

| Yes | 4 |
| No | 6 |
| Did not respond | 1 |

CREDENTIALS

While respondents were not asked explicitly about their salaries,
some interpreted the question about institutional resources to include
their salaries as a reflection of institutional commitment to copyright
education. Therefore, responses to the question about resources and
the question directly related to the educational credentials of the copy-
right officer became blurred. This section will convey the results of both
the direct question of educational credentialing, and then how those
credentials reflect an institution’s fiscal commitment.

The copyright officers interviewed for this study hold three types of
academic degrees. Six hold a Master’s in Library Science, two a Juris
Doctorate and an MLS, two a Juris Doctorate alone, and one holds a
Ph.D. but neither of the other credentials. One of the two JDs without
an MLS holds the copyright officer position within the general counsel’s
office and the other has a position within the library on her campus.
In discussing what the optimum credentials would be for a copyright offi-
cer, only one person, holding both a JD and an MLS, mentioned the im-
portance of the latter degree. “I don’t think a JD is absolutely essential. I
think it helps. I also think that somebody who just got a JD might be
badly positioned because the broad knowledge of academic structures
that being a librarian brings is actually quite important.” Conversely,
all who were interviewed except for two respondents either believe a

1 Throughout the interview results, the term Fair Use is used. This refers specifically
to Title 17 Section 110 of the United State Copyright Code, which articulates the four
factors that must be considered when using another entities’ copyrighted content.
JD is necessary or would be extremely helpful in performing the responsibilities of a copyright officer. This included all librarians except one, who did not respond to the question. The reasons behind this preference—having a lawyer respond to copyright queries—include having an awareness of how to read and interpret court decisions and understanding how the legal system works, increasing the legitimacy of information conveyed, and ensuring that the information is not coming from someone who is not fully prepared to respond.

Another potential difference between those who have a JD and those who do not could be in how they interpret their role when providing copyright guidance—as either an educator or as an advocate for change. One copyright officer was concerned that those with library and information science backgrounds approach copyright issues with a particular agenda, specifically to advocate for open access as the solution to the high cost of journal publishing and for a more expansive interpretation of copyright in general. While advocating for open access and alternative publishing models are not inherently wrong, this copyright officer sees them as not being the role of the person responsible for conveying copyright information. “And here the client is the university; the client is the library; the client is a faculty member. Your job is risk management, risk avoidance, explaining where risk is.” Another copyright officer who works in her institution’s general counsel’s office also addressed this difference in approaches between attorneys and librarians.

Like most institutions we’ve kept a close eye on our Fair Use approaches to uses of materials in the library, and there have been times when people have wanted to push for concepts of Fair Use or policies related to Fair Use that I thought were beyond the comfort zone that we should go, based on the existing legal Fair Use analyses out there, and so there have been times when I have had to say “no, we aren’t going to do that. That’s not consistent with well-accepted views of Fair Use” (CO 3).

In contrast, another copyright officer believes her responsibilities include advocating for broader copyright law interpretation.

I’m more of a copyleft person than not. My fear is always that there is always the sense of how risk averse are some of the—you know, our university counsel is certainly more risk adverse than some of us are in the library. So that’s always a challenge, sort of balancing that (CO 12).

These examples suggest that differing perspectives on the role of the copyright officer exist, and therefore the specific role of the office needs to be articulated clearly. Despite the different approaches to copyright information dissemination, generally speaking, between librarians and attorneys, all of the librarians interviewed for this study who responded to the question believe that it would at least be useful, and perhaps very important, for the person serving as copyright officer to hold a JD.

**CREDENTIALS AS A REFLECTION OF INSTITUTIONAL RESOURCE COMMITMENT**

In some comments, it became clear that the copyright officer’s credentials—whether the institution had hired someone with a JD or not—was directly related to the fiscal resources committed to the activity. One copyright officer specifically stated that “if we could afford it, we would have a lawyer librarian in the library.” Another copyright officer believes that institutions may choose not to hire an attorney because of the cost differential between someone with an MLS and someone with a JD. “I think the idea that you could hire a librarian out of a school of information for $43,45,46,000. Even at twice that, you’re not getting what you need.” Even if someone with a JD serves as the copyright officer, they are not always compensated as an attorney would be. “For a librarian … I am very well compensated. For what I actually represent and for what I bring—not even close.”

### What credentials does the copyright officer hold?

<table>
<thead>
<tr>
<th>Credential Description</th>
<th>Number</th>
</tr>
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<tbody>
<tr>
<td>Master's in Library Science</td>
<td>6</td>
</tr>
<tr>
<td>Master's in Library Science and a Juris Doctorate</td>
<td>2</td>
</tr>
<tr>
<td>Juris Doctorate</td>
<td>2</td>
</tr>
<tr>
<td>Ph.D.</td>
<td>1</td>
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### Should the copyright officer hold a Juris Doctorate?

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<tr>
<th>Response Description</th>
<th>Number</th>
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<tbody>
<tr>
<td>Yes</td>
<td>2 (JD)</td>
</tr>
<tr>
<td>No, Helpful, but not necessary</td>
<td>1</td>
</tr>
<tr>
<td>Either a JD or a Ph.D.</td>
<td>1 (JD)</td>
</tr>
<tr>
<td>Did not respond</td>
<td>1</td>
</tr>
</tbody>
</table>

**PERCEPTION OF AUTHORITY**

The responses to this question were interesting, given the overwhelming opinion that a JD would prove useful if not critical to someone serving as a copyright officer. Only one person interviewed, the JD who is located in the general counsel’s office, believes she is the “last word” on campus copyright issues. All librarians, to some extent or another, believe that they are administratively supported, and that they have the authority on their campus to provide copyright information. Only two people stated that they do not have the authority to carry out their jobs, and both of those hold JDs. Their reason for articulating this position were the same—people on campus who ask for their guidance often do not adhere to it.

I think what frustrates frequently, and I think it goes to your question, is that I will give advice or resources or whatever, and if they’re not wanted, like, if people don’t want to take their medicine, I can’t make them take their medicine (CO 6).

And another perspective:

It comes down to how much authority do you have. When it comes to the dean or the provost who says “we are going to disregard your advice and we are going to disregard our official legal counsel advice,” then it is o.k. I think because I practiced before in law firms too, it is just a matter of, you have to separate it out and take the personal out of it and just say they are clients … I do feel very supported, but I just don’t always think my advice is always taken—as a matter of fact, I know my advice isn’t always taken (CO 1).

In both of these cases, the copyright officer had been a practicing attorney in another context, and is now officially responsible for copyright at their respective institutions. As they both state, they often have their advice disregarded, despite their official role and their expertise in the area, which would logically lead to a level of frustration. Another copyright officer (with a JD) articulated that she has experienced similar situations, but her perspective on how her advice is taken is very different.

I am definitely viewed as an authority on certain issues. I don’t always have decision-making authority about things the libraries are doing. It will come up before me that we are looking at a licensing term that I don’t like, and I can say I don’t like that, and I will actually sometimes very loudly say that this is not a good licensing term, but it is not my call whether we sign that license or not. That hasn’t been a deep frustration—there are things that go along with having that level of decision-making authority that I don’t want (CO 7).

So, the perception of authority among copyright officers with JDs ranges from absolute authority to believing they have little. The
reasons behind this differing perception could be the placement of the office, with someone in the general counsel's office literally having the decision-making authority; it could be with the administration within which the person works, which chooses not to adopt the guidance the copyright officer provides; or it could be the copyright officer herself, who has the expectation that her advice will be followed, but the administrative practices do not coincide with these expectations.

Do you believe you have the authority to do your job?

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<tr>
<th>Response</th>
<th>Count</th>
</tr>
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<tbody>
<tr>
<td>Yes</td>
<td>6 (5 MLS, 1 Ph.D.)</td>
</tr>
<tr>
<td>No</td>
<td>2 (JD)</td>
</tr>
<tr>
<td>Did not respond</td>
<td>1</td>
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RECOMMENDATIONS

Based upon the results of the 11 interviews with copyright officers within the Consortium on Institution Cooperation (CIC), the following recommendations for that position have emerged. The need for such a position does not appear to be in doubt, as each of the 12 institutions in the sample population has someone serving in that role. But where within the institution that person is positioned and the credentials they hold appear to have an effect on both their legitimacy and perception of the authority they hold. The goals in offering these recommendations for a copyright officer position are two-fold: to increase the legitimacy of the office itself and to establish a base-line of authority the copyright officer can expect to have when executing her responsibilities.

LOCATION OF THE OFFICE AND CREDENTIALS OF THE COPYRIGHT OFFICER

I have merged these two recommendations because they are inextricably linked. Both office placement and the credential(s) of the copyright officer can work together to create a stronger, more effective unit. In reviewing the interview results, all but one person believe the copyright officer would be more effective if she held a Juris Doctorate. This degree lends a greater level of legitimacy to the information the copyright officer conveys and, if the position responsibilities are articulated clearly, provides the person with a greater sense of authority. Requiring an additional degree, such as an MLS, might offer the individual additional insight into library operations, but is not necessary. If the copyright officer has a JD, then placing that office within the library offers additional benefits.

As the interview results illustrate, the library is widely considered to be accessible, and those who work within libraries are considered knowledgeable and neutral. The reduced level of legitimacy that might result because this office is located within a support unit, as would be the perception if looking at the organizational structure through Mintzberg’s theoretical lens, is offset by the legal credential. And, in direct opposition to Mintzberg’s theory, no credential can counteract the potential negative impression that might result from the copyright officer’s placement within central administration. Some respondents noted that members of their campus communities believe any unit within their central administration would offer guidance that is skewed toward the best interest of the institution and not the individual. Therefore, the recommendation is:

1. The copyright officer holds a JD.

POSITION RESPONSIBILITIES

Almost all the responsibilities outlined in the interview results are appropriate for a copyright officer. They include:

1. Consulting on copyright-related issues, including assistance with contract interpretation;
2. Educating the campus community through programming, consultation, and information dissemination;
3. Developing and implementing copyright policy or practice;
4. Advocating for the application of copyright law to support teaching, research, and learning.

Note that enforcement of copyright law or policy is not included in the recommended position responsibilities. The role of the copyright officer is to educate, not to enforce. Members of the campus community will naturally be more reluctant to consult with a copyright officer if they believe in any way this person is also acting as the “copyright police.” Enforcement should be at a high level administratively – falling within the general counsel’s office or the office of the provost – but certainly not within the jurisdiction of the copyright officer.

Another item intentionally not included in the list of recommended job responsibilities is scholarly communications. Interviewees who were designated solely as copyright officers saw their role as conveying guidance with the goal of assisting individuals and the institution in remaining compliant with the law as it currently stands. Those who held a position that emphasizes scholarly communications over copyright indicated that they were more interested in pushing boundaries beyond those established through the legal process. As one copyright officer noted, this creates an inherent conflict, not only for the individual, but also for those who have specific expectations of the position. Therefore, the recommendation is to have the copyright officer exclusively responsible for copyright education and guidance as the law and best practices currently define it, and to have scholarly communications activities under a separate unit. This does not mean, however, that the copyright officer should not assist with activities that may be associated with scholarly communications, such as providing faculty members with assistance in negotiating publications contracts. In fact, I would suggest that licensing and contract assistance for the library and the university community (faculty and graduate students in particular) should also be the responsibility of this person or office. This would not include merchandize licensing and patent work, which should remain distinct. Maintaining the separation between copyright guidance and scholarly communications—advocacy activities will assist members of the university community in understanding what copyright information and guidance is based upon legal precedent and what advice is given in order to advance a particular agenda. Above all, both the copyright officer and her manager must have a mutual understanding of the responsibilities that fall under this position in order to increase the copyright officer’s sense of authority and reduce frustration.

STAFFING AND FISCAL RESOURCES

Certainly hiring someone with a Juris Doctorate demonstrates an administrative commitment to the office, but so does providing other resources in support of copyright information management. The range of resources currently offered to copyright offices differs among CIC institutions, with some having no additional resources beyond the copyright officer herself. In some cases the copyright officer devotes a small portion of her time to this activity, while others are committed full-time to copyright management in addition to having additional full-time staff. What emerges from the interviews is that some level of additional staffing beyond the individual is important, if only to provide backup if the copyright officer is unavailable. This staff member would not have to be devoted to copyright activities, but should have enough knowledge to step in if needed. Also, the need for some level of administrative assistance, whether it be a full- or part-time staff member, to handle clerical tasks removes that burden from the copyright officer and allows her to focus on other, more specialized responsibilities. No one who was interviewed was interested in having a large number of employees, either because they did not see the need, or would not know who to hire even if given the opportunity. Having a budget of some kind to cover conference travel and perhaps some campus
mailings like postcards advertising workshops, was also shown as important, although no one expressed any need for a large operating budget.

CONCLUSION

As the relative importance of copyright education grows, ensuring that the people assigned this responsibility have the resources and support to perform their responsibilities in the most effective and efficient way possible is critical. This study explores, through interviews with copyright officers within the CIC, differing copyright information programs in order to recommend the most effective configuration for the research university. The results suggest that hiring an intellectual property attorney is the most important component to building a copyright program that will be respected. Other factors, such as organizational placement and position responsibilities, do not contribute as strongly to the authority of a copyright information officer and her department, but work in tandem with the incumbent’s credentials to create a perceived level of authority across campus while maintaining an equally-important perception of neutrality and approachability. All of these elements are needed if a copyright information program is to succeed.

REFERENCES


