

Copyright Protection of e-learning Contents

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Abstract

Making copies of physical learning contents has significant effort and costs. On the other hand, in e-learning, there is almost zero cost in duplicating copies and distributing e-learning contents via a network. Therefore, to encourage continued development in e-learning content, protection of copyright is a very important issue. However, our e-learning community lacks knowledge in the copyright issue. Basically, the copyright law is intended to provide protection to creators in order to help boost the knowledge and innovation. However, the copyright law is very complicated to understand for people in IT society. To avoid copyright infringement, e-learning developers and authors need to understand the basic principle of intellectual property right protection and copyright law. The purpose of this paper is to introduce several fundamental concepts and the legal principles of the copyright as applied to e-learning content. This paper will be a valuable contribution towards e-learning community especially for developers and authors of e-learning content.

1. Introduction

Digital media are forms of media content that combine data, voice, and video of all kinds, stored in digital formats, and are increasingly distributed through the networked environment [1]. Information and communication technologies have made works of authorship ever more accessible to the public. As a result, a digital content can

be easily copied and instantaneously distributed worldwide through the Internet. In knowledge-based society, the sharing of knowledge in the form of electronic content is challenged by the Internet and the protection of knowledge through copyright.

There are more cases of copyright infringement because the digitization of creative content allows perfect, almost zero cost and unlimited copying of content. Without legal protection and enforcement, authors may not make their content available in digital form.

Today, Universities become producers of electronic content such as copyrighted videos, CD-ROMs, websites and courseware. The potential for commercialization of e-learning courses, CD-ROM's, websites, and software has focused new attention on faculty members' creations which should be recognized in a copyright policy.

Moreover, the University policy must insure that the rights of employees and students as well as those of the institution are protected [2]. Therefore, the copyright is a significant issue at the virtual workplace of universities.

2. What is Copyright?

A purpose of copyright law is to protect for limited times to authors the exclusive rights to their works which may be useful for all mankind. The result of this purpose is that every work will eventually enter into the public domain where it will be freely accessible to all [3].

Basically, in copyright law, an author's original works is automatically protected once it is fixed in any tangible medium, such as on paper, video, audio, disk, computer memory, CD ROMs, and etc. It protects the form of expression, but not ideas or facts such as the melody in its written form, the software, the course materials displayed on a web page. There is no need to take any formal action to protect the work [3]. Generally, the duration of a copyright varies greatly depending on the year in which it was created or published.

Whenever any person creates a work under the conditions of the copyright, they will be exclusively entitled to do anything to or with regards to the work, for example, its reproduction, adaptation, dissemination to the public and the granting license to other persons to use the said rights [4].

Copyright protection exists in 3 main issues as following [5]-[6]:

(1) Original

The work must be original. The originality requirement of copyright means merely that the work was independently created by the author and possesses some minimal degree of creativity. It is not necessary for the work to be completely original. Works may be mixed, combined, adapted, or transformed in new ways that would make them eligible for copyright protection.

(2) Works of authorship

Once a work is fixed in a tangible medium of expression, a minimum level of protection is immediate and automatic. There is no need to take any formal action to protect the work.

(3) Fixed in any tangible form

The item must be fixed in some way, in any tangible medium of expression, now known or later developed, from which it can be perceived, reproduced or otherwise

communicated, either directly or with the aid of a machine or device.

This means that the copyright protects the work, which any author creates, in the form in which it is expressed but does not protect the underlying ideas and information in the work. On this account, if any idea is not created to be a work in physical appearance, no copyright protection shall be extended to such idea [7].

The copyrightable works are stipulated as one of the following works [5]:

1. Literary works means every production in the literary domain, such as books, writings, printings, lectures, addresses and speeches, including computer programs.
2. Musical works means any musical composition for playing or singing, whether with rhythm and lyrics or only rhythm, and include a musical notes or musical diagrams.
3. Dramatic works means works relating to choreography, dancing, action or performance in dramatic composition, and includes pantomime.
4. Artistic works means any works of painting and drawing, work of sculpture, works of lithography, works of architecture, photographic works, works on illustrations, maps, structures, sketches, or three-dimensional works in relation to geography, topography or science, works of the applied arts, and includes the photographs.
5. Audiovisual works means works composed of a sequence of images recorded in any form of material, which are capable of being replayed by necessary apparatus for using such material, and include a sound track of that work, if any.
6. Sound and video broadcasting works means works communicated to the public by means of radio

broadcasting, sound and video broadcasting on television or by other similar means.

7. Sound recordings means works composed of a sequence of music, sound of a performance or any other sound recorded in any form of material.
8. Cinematographic works means audiovisual works composed of any sequence of visual images, which is capable of being continuously shown as moving pictures, and includes the sound track of that moving picture, if any.

3. Protection of Copyright

The owner of a copyright has certain exclusive rights:

1. Reproduction or adaptation.
“Reproduction” is any mode of copying, emulation, duplication, block-making, sound recording, computer program, video recording or sound and video recording, from the original, a duplicate or a publication in its material part, and not being in the nature of making a new work, whether wholly or in part.
“Adaptation” is a reproduction by conversion, improvement, amendment or copying of the original in its material part, and not being in the nature of making a new work, whether wholly or in part.
2. Distribute to the public.
Distribute to the public means making the work available to the public by sale or other transfer of ownership, or by rental, lease, or lending.
3. Granting license and duplicates of works
Granting license to other persons to use the right with or without imposing any condition. Letting the originals or the duplicates of computer program works, audio-visual works, cinematographic works and sound recording works.

The term of protection or duration of copyright may differ from one country to the next. Therefore, individuals should observe the legislation of the country in which they propose to enact the use of the copyright work. For an example, the terms of the protection in part 4 of the Copyright Act B.E. 2537 of Thailand are as follows [9]:

Section 19: Subject to Section 21 and Section 22, copyright by virtue of this Act endures for the life of the author and fifty years after the death of the author.

In the case of a work of joint authorship, copyright endures for the life of the joint-authors and fifty years as from the death of the last surviving joint-author.

If the author or all joint-authors is or are dead prior to the publication of the works, copyright endures for fifty years as from the first publication of the work.

In the case of the author being a juristic person, copyright endures for fifty years as from the authorship; provided that if the works is published during such period, copyright endures for fifty years as from the first publication.

Section 20: Copyright by virtue of this Act in a work which is created by a pseudonymous or anonymous author endures for fifty years as from the authorship; provided that if the work is published during such period, copyright endures for fifty years as from the first publication.

If the identity of the author becomes known, Section 19 shall apply *mutatis mutandis*.

Section 21: Copyright in a photographic work, an audiovisual work, a cinematographic work, a sound recording or an audio and video broadcasting work endures for fifty years as from the authorship; provided that if the work is published during such period, copyright

endures for fifty years as from the first publication.

Section 22: Copyright in a work of applied art endures for twenty- five years as from the authorship; provided that if the work is published during such period, copyright endures for fifty years as from the first publication.

Section 23: Copyright in a work which is created in the course of employment, instruction or control in accordance with Section 14 endures for fifty years as from the authorship; provided that if the work is published during such period, copyright endures for fifty years as from the first publication.

Section 24: The publication under Section 19, Section 20, Section 21, Section 22 or Section 23 which is the commencement of the term of copyright protection means the publication of the work with consent of the owner of copyright.

Section 25: When the term of copyright protection expires during a year and the expiry date is not the last calendar day of the year or the exact date of expiration is not known, copyright endures until the last day of that calendar year.

Section 26: The publication of a copyright work after the expiration of the term of copyright protection shall not cause a new the copyright in such work.

4. Fair Use of Copyright in Online Education

Today, many online Universities have addressed the problem of online copyright infringement on the use of the Internet. The main purpose of this section is to provide guidance for educators on the fair use principles.

As distance learning and online programs become more popular in our knowledge-based society, it gives rise to complex copyright issues related to both the question of ownership of the newly created work, as well as the question of “fair use” of existing materials.

Copyright law allows portions of a copyrighted work to be used without the author's permission. This is referred to as “fair use”. Today, here are no set guidelines that are universally accepted [6]. Normally, the fair use guidelines should provide the exceptions from infringement of copyright, if done as follows [8]:

1. research or study of the work, which is not done for making profit;
2. report of current events through the mass media, accompanied by an acknowledgement of the copyright ownership in such work;
3. reproduction, adaptation, exhibition or making available for judicial or administrative proceedings under the law, or for a report of the said proceedings;
4. reproduction, adaptation, exhibition or making available by a teacher for teaching, which is not done for making profit;
5. reproduction or adaptation of a part of such work, or abridging or making a summary by a teacher or educational institution for distributing or selling to students in the class or in an educational institution, provided that is not done for making profit;
6. utilization of the work as a part of the examination questions and answers.

Therefore, educators can avoid copyright violations and legally use copyrighted materials if they understand and comply with the fair use guidelines. However, educators should avoid making multiple copies of different works that could influence the benefit of the publishers, for examples, copying the same works from

semester to semester, copying the same material for several different courses at the same or different institutions, and copying many separate times in a single semester [6].

Basically, content on the Internet including the World Wide Web is copyrighted. It is a common misconception that everything on the Web is free. It is obvious that electronic documents on the Web and in other digital formats are easier to reproduce and distribute than other media. However, the ease of reproduction and distribution does not change the copyright status. For these reasons, the fair use limitations on digital media should be more stringent than fair use guidelines for other media.

5. Conclusions

The copyright protection for e-learning content is discussed in this paper. Many important aspects of fair use of copyright works are also explained. The paper shows the need to ensure intellectual property protection for electronic content as a reward and encouragement for creating digital content to support e-learning. However, the Intellectual Property Rights in relation to the e-learning is still evolving and needs further study to gain more understanding and to provide adequate protection.

References

- [1] Flew, T., *New Media: An Introduction*, Melbourne: Oxford University Press, 2004.
- [2] Primer on copyright ownership, Copyright Use and Ownership Policy of the University of North Carolina, 2003.
- [3] Phillips, Jeremy, and Alison Firth. *Introduction to Intellectual Property Law*. London: Butterworths, 1990.
- [4] Bainbridge, David I. *Intellectual Property*. London: Pitman, 1992.
- [5] William D. Marvin, "An Introduction to Copyright Law", the Continuing Legal Education seminar, 2004.
- [6] Copyright and Fair Use in the Classroom, on the Internet, and the World Wide Web Guideline document, University of Maryland University College, 2004.
- [7] Dworkin, Gerald and Taylor, Richard D. *Blackstone's Guide to Copyright, Designs and Patents Act 1988*. London: Blackstone Press, 1990.
- [8] Chaiyos Hemarajata, "Copyright Law in Thailand", Online Document, 2004.
- [9] *The Copyright Act B.E. 2537 of Thailand*