Beyond the Source Wall
Copyright, legality and risk in an networked age

Gaz J Johnson
Document Supply & Repository Manager
University Library
University of Leicester

4th April 2012
The Online Environment Today

- A wonderful collaborative, content rich and productive environment for driving forward innovation, research and education!!!!!!

An easy way to find yourself sacked by your employer and up before a judge for breaking the law

- The only no risk approach to is to stay legal and think before you do anything!
Copyright 101

- The CDPA (1988) is the key legal framework
  - Problem is galloping technology, lumbering legislation
  - Hargreaves report recommends improvements
- Under UK law copyright is automatic
  - Any 3rd party content communicated to public raises risk
  - Criticism and review defence may apply
  - Educational exceptions are extremely limited
- On the Web doesn’t mean copyright free
  - Copyright doesn’t have to be claimed or listed
  - Creative Commons is a help as encourages reuse
Ownership Key Points

• All objects have a worth
  • IPR usually retained by creator, except where contract law applies
  • Hosted sites may have additional IPR issues
  • Check site licences for your uploaded content

• Don’t reuse items that might infringe ©
  - Don’t share links to illicit materials
  - You and the institution would be liable
  - Virtual world - virtual theft...?
Ownership and Reuse

- Images are copyrighted unless otherwise noted
  - Safer to link to an image than share it or reuse
  - Uploads tagged with searchable reuse licensed rights
- Online textural content not immune to copyright
  - Text may be owned by employer or creator/author
  - Comments owned by commenter and legally attributable
- Performance rights
  - Usually retained by performer not employer (not UoL)
  - Reuse of recorded lecture advisable to seek permission
Data Protection

- People control how their appearance is reused
  - Warn audience members in streamed session
  - Consider performance rights for the lecturer

- Personal data should not move outside of EEA
  - E.g. cloud storage of student information

- Avoid sharing ANY personal data
  - Especially via social or open platforms
  - Make students aware of the need for care
  - Do not reuse key biometric data without explicit permission and ethical review
UoL Internet Usage Policy

• UoL Internet Policy key points
  - IT systems provided for academic and administrative purposes
  - Web authors are held personally accountable for the content of individual pages
  - Not install/use file-sharing or 'peer-to-peer' software for the illegal downloading of copyrighted material

• JANET Policy
  - Unacceptable usage includes infringement, defamtion, defrauding and general annoyance
It’s A Risky, Risky World

• Exposing yourself and the University to risk
  - A really bad idea you don’t want to happen
  - Too much risk leads to liability which can lead to court

• Online risk is a complex entity
  • Analogue rather than digital scale
    - Sharing/working with illicit/illegal material is risky
    - But is risk part of the job?

• Risk mitigation
  - Knowing acceptance of the risks
  - Follow the best practice guidance
😊 No Risk 😊
- Reusing material entirely created & owned by you or University
- Reusing material made available under an open licence
- Reusing material with written permission from the rights holder

😊 Lower Risk 😊
- Posting a link to clearly infringing material
- Retweeting unsubstantiated rumours about an individual
- Reusing blog content without contributor’s consent

😊 Higher Risk 😊
- Reusing third party material in documents which are then distributed electronically on the Web
- Mashing-up multiple media sources and distributing electronically where ownership and permission is ambiguous, or in breach of its copyright status
Risk = Illegality × Discovery × Litigiousness × Fiscal damage

Adapted from Prof C. Oppenheim, 2006
Disclaimers & Licences

- Click-wrap/browse through agreements (EULAs)
  - Platform owners define user rights (or lack)
  - Platforms and sites indemnify themselves but still liable as facilitators of your action
- Disclaimers are useful statements of denial
  - But are not robust legal instruments of defence
  - Robustly enforced takedown policy may be needed
- Creative Commons and open licenses
  - Internationally recognised & under UK law
  - Concerns over sharing permissions
The Undiscovered Country

• Where does a transgression take place?
  - Under what jurisdiction would/could it be prosecuted
  - May breach site TOS, but unless very serious prosecution unlikely

• Active creation vs passive consumption
  - Sharing an unattributed image to a SlideShare
  - Retweeting a link to an illicitly hosted film online
  - Viewing privately can still breach law and licence

• No one knows- so it doesn’t matter...right?
  - Risk still exists and detection getting easier
Best Practice Tips

- Do not share or reuse content to which you do not own the rights or have permission to share
- Only link to legal and non-infringing content
- Check the t&cs of media-sharing sites before you upload
- Respect the law, follow the guidelines and stay out of court!
Contacts

• Gareth J Johnson
  - Ext 2039, gjj6@le.ac.uk
  - Twitter: llordllama

• Tania Rowlett
  - Ext 7399, copyright@le.ac.uk
  - Twitter: ttelwort

• For more details see copyright course materials!

www.le.ac.uk/copyright