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## Teaching Copyright Law through Participatory Involvement in an Unconference Setting

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### Abstract

An “unconference” is an attempt by librarians and other professionals to work outside of the traditional conference model. Presenters are encouraged to break out of traditional modes of presentation and try new methods of engaging with the participants. We submitted an idea for a session focused on demystifying domestic and international copyright law and discussing how the law affects libraries and archives. Modern librarianship demands at least a basic understanding of copyright and intellectual property issues, and librarians have reported that they lack training and knowledge in this area. We determined that we did not want to present a formal lecture on copyright in libraries, especially given the freedom and intellectual experimentation encouraged by an unconference setting. Instead, we determined that the best way to present copyright principles would be to share examples of real-life scenarios with the participants and assist them in applying the principles of copyright law to those situations. We hoped that participants would build confidence in their ability to respond when copyright issues arose at the workplace. This paper outlines the approach we took to prepare and present this unconventional session, and it includes an assessment of the results.

*Keywords:* copyright education, librarianship, library conferences, active learning, career development



## Unintroduction

Many librarians participate in annual conferences. Indeed, most are familiar with the routines of the conference—shuffling from room to room with coffee in hand and attending presentations. An *unconference*, however, is an attempt by librarians and other professionals to work outside of this traditional conference model (Wrubel, 2013). It is a participant-driven event with the goal of presenting attendee-curated seminars as opposed to presentations chosen by a conference committee. There are many opportunities to network and learn at an unconference, similar to a traditional conference. The atmosphere, however, is decidedly casual, and the attendees are encouraged to participate actively in sessions as opposed to passively listening to a presentation. Presenters, as well, are encouraged to break out of traditional presentation methods and try new methods of engaging with the participants.

Murray and Carson (2018) stated that the “core” idea of the unconference is to encourage “interaction between attendees and the discussions which emerge when participants are given a space to engage on topics which interest them” (p. 2). Even if the topics addressed are traditional to librarianship, the format for engaging the stakeholders is adventuresome. For example, librarians at the University of Nevada, Las Vegas, hosted an unconference in order to engage with faculty to determine their concerns regarding research data management (Murray & Carson, 2018). During that unconference, discussion topics were not planned until participants arrived at the library for the event. Librarians at George Washington University used the unconference model to discuss electronic resources management issues with librarians and staff from local academic libraries, special libraries, and federal agency libraries (Wrubel, 2013). During this event, a real-time wiki was used to keep participants informed of the day’s schedule.

The Continuing Education Committee of the Western New York Library Resources Council (WNYLRC) hosts a yearly regional unconference, *Intersect*, that attracts participants from Buffalo to Ontario, Canada. Now in its second year, WNYLRC’s unconference featured local panels, presentations, and a “gadget gallery” where local librarians shared new technology. The theme of the unconference, global librarianship, was provided by an attendee of the previous year’s unconference. The stated purpose of WNYLRC’s unconference series is to facilitate a culture of colearning among librarians and other interested professionals in the region by bringing people together to share ideas in an interactive, engaging, informal setting where the local community determines the content. Potential seminar facilitators were asked to share their ideas on the web platform Tricider,<sup>1</sup> and the community was asked to vote on the sessions in which they would be most

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<sup>1</sup> Tricider is a “platform on which people can brainstorm together and find solutions even if they’re scattered around the world.” You can learn more at <https://www.tricider.com/tricider-FAQ>.

interested in participating. The resulting schedule reflected the global librarianship theme, with programs such as “An International Partnership for Your Library: It’s Possible!” and “PubMed Hacks—Think Globally, Search Locally.”

We submitted an idea for a session entitled “Why International Copyright Matters to Libraries and Archives.” The purpose of the session was to demystify domestic and international copyright law and discuss how the law affects libraries and archives. Modern librarianship demands at least a basic understanding of copyright and intellectual property issues, and librarians have reported that they lack training and knowledge in this area (Bossaller & Haggerty, 2018; Charbonneau & Priehs, 2014). The proposal was a collaboration between a public librarian, an academic librarian, a college archivist, and an attorney, all of whom have an interest in copyright education and experience confronting issues of copyright in their workplace. This paper outlines the approach we took to prepare and present this session, including an assessment of the results. In the spirit of an unconference, we have not written a traditional literature review for this case study because we prepared the session using our own base of knowledge with the thought of a paper evolving at a later point. We do, however, discuss relevant literature in the Undiscussion.

### **Unpreparation**

We prepared for the unconference through an in-person meeting and online collaboration. During the in-person meeting, we quickly determined that we did not want to present a formal lecture on copyright in libraries, especially given the freedom and the intellectual experimentation encouraged by an unconference setting. Instead, we determined that the best way to present copyright principles would be to share examples of real-life scenarios with the participants and assist them in applying the principles of copyright law to those situations. We hoped that participants would build confidence in their ability to respond when copyright issues arose at the workplace. We planned to ask attendees to engage with us in a hypothetical situation in order to learn and review the material because we perceived the fluid structure of the unconference to be an environment where participants would welcome an interactive and dynamic learning experience. The unconference planning committee did not disagree, and we proceeded with planning the interactive session. The title was modified to “Global Copyright: Awareness and Response.”

Because we were working within a very limited session timeframe of 45 minutes, the program structure was divided into three learning blocks of approximately 12–15 minutes each. We decided to begin with a short introduction to the topic of copyright, then proceed with real-life scenarios based on our background experience. The segments were then split by copyright topic area and

librarian. The first, “15 Minutes at the Reference Desk,” was prepared and presented by the librarian with experience in both public and academic libraries. The second, “15 Minutes in the Archives,” was prepared and presented by the librarian with experience in college archives. The third, “15 Minutes Responding to a Copyright Violation Claim,” was prepared and presented by an attorney practicing in copyright and library-related law. We also prepared an overview of copyright law in the form of an engaging infographic handout (Appendix).

During our initial brainstorming meeting we determined that it was also important to provide a grounding in the law to the participants before we jumped into the scenario activities. We planned to allot approximately five minutes to this section because we assumed that most of the librarians and professionals attending the session had some level of understanding of copyright concepts. This assumption was based on our own workplace experiences and training received at professional conferences and continuing education seminars. Additionally, we sought to ensure that we connected our seminar to the unconference theme of global librarianship. The initial slide show, therefore, was informative but brief. We focused on two main themes: the scope of copyright in the United States/internationally and the general principles of international copyright. Because our main goal for the session was to build confidence in addressing real-life copyright issues, we did not move beyond this quick overview. Again we assumed, rightly or wrongly, that this group of librarians and library professionals would hold a base knowledge of copyright law. By pointing out the similarities between US law and international law, we hoped to demystify the international portion of the law.

The session was described in the unconference program as follows: “A panel of experienced professionals will lead exercises demonstrating how copyright law directly affects library professionals. This highly interactive session will provide scenarios, role-plays and drills in order to prepare the library professional for navigating the challenges of laws that govern intellectual property” (Western New York Library Resources Council Continuing Education Committee 2019) As discussed above, we prepared a set of scenarios based on our professional background and experience. Indeed, we had first-hand experience with most of the scenarios presented during the session. We had initially hoped to ask the participants to act out the scenarios, but we determined that we simply did not have enough time to cover all the topics and engage with them at that level. Instead we planned to ask for volunteers to read the scenarios aloud to the group. Then we would discuss response options with the group. The scenarios are detailed in Tables 1 through 3; the information provided in the brackets indicates the main point of copyright literacy addressed in the scenario.

**Table 1. 15 Minutes at the Reference Desk**

A student is writing a paper on the Adirondack Mountains and finds a great picture of Lake Placid on the internet. She wants to use it in her paper but cannot edit out the photographer's name! She asks you for help. What should she do? How would you advise her? [Fair Use]

A patron approaches the desk with a stack of children's picture books. She shares that she has been inspired by watching YouTube videos of librarians reading picture books to children and would like to do the same for her grandchildren. She asks you which books are your favorite. How would you advise her? [Fair Use]

A patron approaches your desk with a question. He is the president of a local film club and would like to host a party for his members screening old movies. He is familiar with some of the pitfalls of copyright since he is a film buff and reads lots of industry publications. How can you assist him? [Copyright Duration]

At the beginning of each new semester, a biology professor contacts the library and asks to have a copy of *Biology 101* placed on reserve. The library places the book on its reserve list and students can borrow the book for two hours at a time. The librarian notices that a student, instead of reading the book, spends his two hours sitting at the scanner and scanning pages. What should she do? [Copyright Ethics]

**Table 2. 15 Minutes in the Archives**

You are hired to work in a college Archive and Special Collections to make more materials available online for students. While looking through possible materials you come across a box of old-school scrapbooks without donation information. You think the students will be especially interested in the materials but worry about putting them online. You ask your supervisor, but they tell you it is up to you. What do you do? [Rights of Copyright Owners]

You work in an Archive & Special Collections Department. You recently digitized all the college's student yearbooks and made them text searchable and openly available online. You've received nothing but incredibly positive feedback until one day you get an email. A woman writes you stating that her husband is a police officer and generally works undercover; as a result she tries to keep her digital footprint as small as possible and would like her photograph and name removed from the online yearbook. You know that the college owns the copyright and has the right to publicize the yearbooks online. How do you respond? [Copyright Ethics]

A patron comes in and uses Special Collections material. The material was not created by the college and you do not have the copyright through additional agreements. As per your department policy, he takes some reference photographs with his phone. Later in the month he emails you his print publication proudly displaying your collection image as part of his article. How do you respond? [Rights of Copyright Owners]

The Archives & Special Collections supervisor asks you to create an exhibit for the upcoming semester that has physical and online components to be displayed in a public area on campus. The collection selected features many LGBTQ photographs from local artists that were collected by a third-party individual and donated to the archive. Your standard donor agreement contains a copyright transfer statement, but you are not sure if you can display them physically, much less online without violating someone's rights. In addition, the topics in the photographs are somewhat risqué. What about the rights of the people in the photographs? Did they know they would be on public display? What do you do? [Copyright Ethics]

### Table 3. 15 Minutes Responding to a Copyright Violation Claim

It is a normal snowy day in Buffalo. The phone rings. It is a man who introduces himself as Brian Smith, a retired professional photographer for long-operating Buffalo Images photography studio. Mr. Smith is yelling. He claims that the library digitized and made available a local yearbook with his professionally shot images from 1997. One of the images is of a local celebrity who recently became engaged to a member of the British royal family. A tabloid paper in the United Kingdom is using the image from the yearbook along with a story about the celebrity. He says to you, "Who made those scans?!?! I am going to sue them, the library, that tabloid rag, and everyone else I can think of." How do you respond? [Copyright Infringement]

It is a hot day. An e-mail comes to you just as you are getting ready to go on break. It says: "I am a professional photographer. My work is posted on my website with a 'Creative Commons "use with attribution"' license (see link). I recently found that your library used two of my pictures, taken in Egypt, on your website without any attribution whatsoever (see attached screenshot). I am concerned about this abuse of my rights and would like this corrected immediately." How do you reply? [Copyright Infringement]

A patron is looking for a copy of *Oh, the Places You'll Go*. As you lead her to the children's section, she tells you she is writing a book called *Oh, the Places You'll Boldly Go* that will combine the book's perspective with a Star Trek world-setting. When you find the book, she pulls out her phone to take pictures. Another patron, seeing the picture-taking, says to the first patron, "I am the attorney for the heirs of Theodor Geisel. What you are doing is copyright infringement." She then turns to you: "And you're enabling it." How do you respond?<sup>2</sup> [Copyright Infringement]

Your public library shares space with the townhall. One day a clerk from the town attorney's office stops by to use the scanner. She explains that they want to scan the print version of the annotated Town Code "so everyone can view it online."

<sup>2</sup> Readers may recognize this scenario, which was recently declared fair use by the court in the Southern District of California. See <https://boingboing.net/2019/03/14/fair-use-vs-seuss.html>.

You mention that the unannotated version is already available online for free, and the clerk replies, “We know, but we paid this company for a print copy of the annotated version, but we want it electronically, too.” The clerk then uses the scanner in the corner for about three hours a day for the next week. A few months later, a person identifying himself as “Hank from the Canadian Code Company” calls and asks you, “Did someone from your town scan our code at your library?” How do you respond? [Copyright Infringement]

### **Unsession**

There were 22 librarians and other library professionals who attended the session. Each participant was given a copy of the infographic handout and a set of cards with text of the real-life scenarios. After introducing the speakers we began the session by asking participants to raise their hands to show if they had any prior experience with copyright. Approximately half of the attendees raised their hands in response. Then, as discussed above, we presented a brief overview of copyright and international law. Brief was indeed brief—this part of the presentation was limited to a mere 3–4 minutes. We relied heavily on the premise that the attendees had some measure of copyright knowledge in their toolbox that could be built upon in order to increase their copyright knowledge and confidence in answering copyright-related questions. The presentation was meant to briefly demonstrate similarities between copyright law in the United States and international copyright law. We listed the categories of intellectual property covered both by US and international law—all of which overlapped. We then introduced the principles solidified by recent international treaties and conventions between the United States and other nations; namely (and very generally) that you must obey the law of the country you are in (US Copyright Office, 2019).

Next, we moved into working through the real-life scenarios with the participants. We asked for volunteers to read the scenarios aloud. Within the allotted time period we each presented the scenarios to the audience and worked through the appropriate responses. We did not have time for the role-plays advertised in the session description, but the participants did not question this omission.

During “15 Minutes at the Reference Desk” we worked through the scenarios using a framework adopted from the work of Myers (2014). First, we recommended conducting a brief reference interview to determine the type and scope of information needed by the patron—whether it be a community member, college student, or faculty member. We suggested that the following questions be kept in mind: (1) Is the work in question protected by copyright and, if so, who owns the copyright and (2) What options are available for the patron to legally utilize the work? We then recommended that the participants should assist the patron in

determining available options (e.g., fair use doctrine; face-to-face teaching; distance learning; public domain works; open access or creative commons works; permission; license).

Session participants were initially tentative, but participation increased as the session moved through the real-life scenarios. We then presented “15 Minutes in the Archives.” The participants were engaged and amenable to the practical advice presented during this segment; namely that of working together with colleagues and supervisors to address sticky copyright issues. During this period, the importance of section 108 of US copyright law (Title 17, United States Code), addressing copyright exemptions available to libraries and archives, was discussed.

During the final segment, “15 Minutes Responding to a Copyright Violation Claim,” we worked through real-life scenarios of copyright gone wrong. The attorney who prepared this section shared how many individuals, when faced with a claim of infringement, commonly feel panic. In order to build confidence in our participants we recommended the following scripted response upon receipt of a claim of a copyright infringement: “I hear that you are concerned and am making a note of it. May I please have your name and number so we can get back to you as soon as possible? What is a good time for a call tomorrow?” We coached the participants on the importance of remaining polite and professional while not sharing any additional information during such confrontations. By the end of the session, participants were repeating the script in unison as they practiced responding to the real-life scenarios. We additionally stressed the importance of working with supervisors when these issues arose. In particular, we noted that insurance carriers should be immediately contacted when such a claim of infringement is asserted because insurance policies often provide legal assistance in such matters.

### **Unassessment**

After the unconference, WNYLRC emailed attendees an evaluation form. The form asked attendees to evaluate each session on a scale of 1–4 (with 4 being the highest) based on the following four standards:

1. The presentation met my expectations.
2. The content was well organized.
3. The handout materials were helpful.
4. The presenter should be invited back.

Thirty attendees completed the survey but six attendees skipped this question and some marked the questions “N/A,” which we will assume means that the individual did not attend the session.

Table 4. WNYLRC Evaluation Results

	4	3	2	1	N/A
<b>Expectations</b>	42% (10)	17% (4)	-	-	42% (10)
<b>Content</b>	46% (11)	13% (3)	-	-	42% (10)
<b>Handouts</b>	38% (9)	17% (4)	-	-	46% (11)
<b>Presenters</b>	46% (11)	13% (3)	-	-	42% (10)

### Undiscussion

Based on the results of the assessment, we believe that the session was generally successful. We were pleased with the participants' level of engagement with each other and with the presenters. After a slow start, several participants shared answers in response to the scenarios. We observed varying levels of expertise in the responses. The discussion at times felt rushed, and it was difficult to determine whether all of the attendees would have reached the same conclusion as the participant who shared a response. Our decision to skip a lengthy overview of copyright law in favor of allocating more time to the scenario work did not, then, yield clear results. We chose this approach because we thought that experienced librarians would benefit from understanding how others had dealt with the same issues and that those who were novices would benefit from an example of a hypothetical issue. We also knew that a lecture-based approach is the standard method of presentation at conferences; we felt that the hands-on examples would be retained more than a dry recitation of copyright law for the novices attending.

In hindsight, it would have been helpful to allocate more time to discussing the scenarios put forth in "15 Minutes at the Reference Desk" and "15 Minutes in the Archives." This could be achieved by reducing the number of scenarios in each section. Alternatively, the program could be split between archives and libraries in order to discuss each more fully. We felt that the content of the scenarios was adequate but could have been improved to highlight one or two issues of international copyright law. This would have reinforced the principles introduced at the beginning of the program. Participants, however, enthusiastically recited the response script when faced with our copyright-infringement scenarios. We believe that this portion of the session built participants' confidence in responding to potential legal claims.

Some of our original thoughts were not fully developed or executed during the session. We did not use role-play to address the scenarios. This model was dropped from the program because we simply did not have enough time to cover all

of the material, and we felt that we could adequately cover the issues highlighted in the scenarios through the use of dialogue with the presenter and group discussion. We do not regret this decision, but it would be interesting to explore this method in a future program to gauge whether it enhances participant understanding and increases participant confidence.

This leads us to the following question: Should we have assumed that the participants in this session had prior knowledge of copyright law? The literature indicates that, generally speaking, librarians and other library professionals are not confident in addressing intellectual property issues. A recent survey of American Library Association–accredited library and information science programs found that intellectual property and copyright instruction was not widespread or in-depth enough to prepare graduates for the demands of modern librarianship (Schmidt & English, 2015). A survey of public librarians found that the librarians surveyed preferred a hands-off approach to intellectual property issues, some stating that they did not want to “police” the actions of patrons (Bossaller & Haggerty, 2018). A national survey of librarians and professionals working in academic settings determined that “more comprehensive training to help increase awareness of various areas of copyright policies might be warranted” after only 56% of the respondents indicated being “comfortable” or “very comfortable” with current copyright policies (Charbonneau & Priehs, 2014). The authors of that study even suggested the use of scenario-based training as an “engaging” way to build “familiarity” with issues of copyright.

What, then, is a better way to approach copyright education in order to increase librarians’ and library professionals’ comfort/confidence levels with the subject? The research suggests that a change in approach is needed. We assumed that our local participants held background knowledge in copyright law and would use that knowledge to address issues that may occur in a professional setting. Our session was attended by seasoned and new librarians and library professionals with varying levels of training in this subject who shared their experiences and ideas. We believe that the use of scenario-based training to build confidence in librarians has great potential. Paired with a grounding in copyright law, scenario-based training may be an effective way to build knowledge and confidence in addressing copyright issues.

Other pedagogical approaches have been taken to present this complicated legal topic to librarians and library professionals. A flipped-learning model was used to provide copyright-literacy training to a group of subject liaison librarians at a university library (Benson, 2019). Benson (2019) described the practice as a reversal of the standard lecture format: students (or trainees) are first asked to view lecture material prior to the session, and the in-class time is used to participate in

active dialogue and interaction (Benson, 2019). Interestingly, Benson (2019) noted that librarians could be “counted on” to watch the video prior to class.

Perhaps here the addition of the flipped-learning approach prior to the interactive session would be a good value-added proposition for future unconference or conference sessions. It would certainly ensure that participants had a grounding in the fundamentals. We then would have the opportunity to increase the interactive portion of the session. For instance, research shows that exercises in problem-based active learning, like the scenario approach taken in this case, have been found to increase content retention and critical thinking skills (Bonnet, Herakova, & McAlexander, 2018). Educational research studying the active retrieval of information by students found that “spending time actively attempting to retrieve and reconstruct one’s knowledge is a simple yet powerful way to enhance long-term, meaningful learning” (Karpicke, 2012). The unconference setting of the session presented in this case study provided an opportunity to approach the subject of copyright education in a different way. Based on our experience, we encourage a focused session that separates the complex issues encountered in libraries and in archives paired with a discussion of how to address claims of infringement. Moreover, we believe that it is important to allot time to sharing copyright fundamentals with participants, particularly in a conference or unconference setting where participants are at different career levels. Given that librarians have shared their discomfort with copyright-related issues, it is difficult to assume that the law is understood, as we did. We hope that this article encourages other presenters to attempt different methods when conveying copyright knowledge to librarians and other library professionals.

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## Appendix

This infographic handout provides an overview of the law, touching on fair use and section 108 of US copyright law. Additionally, the handout lists a number of excellent references for copyright law targeted at a librarian audience. The “Determining Fair Use” image is licensed under a Creative Commons Attribution 4.0 International License and was accessed at <https://www.copyrightandcreativity.org/high-school/>.

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2019

# COPYRIGHT IN LIBRARIES

GLOBAL COPYRIGHT AWARENESS AND RESPONSE

## What is copyright?

Copyright applies to “original works of authorship fixed in any tangible medium of expression.”

**Fair Use: The 4 Factor Test**

**DETERMINING FAIR USE**

- purpose and character of the use
- nature of the copyrighted work
- portion used in relation to the copyrighted work as a whole
- effect of the use upon the potential market

**COPYRIGHT PROVISIONS FOR LIBRARIES AND OTHERS IN THE U.S. COPYRIGHT ACT**

THE SPECIAL PROVISIONS IN THE U.S. COPYRIGHT ACT ARE SET OUT IN SECTION 108, TITLED “LIMITATIONS ON EXCLUSIVE RIGHTS: REPRODUCTION BY LIBRARIES AND ARCHIVES.” THESE PROVISIONS APPLY IF:

- QUALIFYING LIBRARIES MAY MAKE COPIES FOR:
- PRESERVATION AND SECURITY
- DEPOSIT FOR RESEARCH USE IN ANOTHER LIBRARY OR ARCHIVES
- THE PURPOSE OF REPLACING A COPY OR PHONO RECORD THAT IS DAMAGED, DETERIORATING, LOST OR STOLEN, OR IF THE EXISTING FORMAT IN WHICH THE WORK IS STORED HAS BECOME OBSOLETE
- FOR INTERLIBRARY LOAN, SUBJECT TO NUMEROUS AND VARIOUS CONDITIONS

**OTHER RESOURCES:**

- [HTTPS://LIBGUIDES.ALA.ORG/COPYRIGHT/ALARESOURCES](https://libguides.ala.org/copyright/alaresources)
- [HTTPS://FAIRUSE.STANFORD.EDU/LIBRARY-RESOURCES/](https://fairuse.stanford.edu/library-resources/)
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