Licensing Streaming Media and Digital Content

Part 1 of Challenges of Managing Streaming Media and Other Digital Content

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The Association for Library Collections & Technical Services
• **Head, Copyright and Document Services**
  
  – Copyright Services
  
  – Interlibrary Loan & Document Delivery
  
  – Reserve Services, including electronic reserves
  
  – Institutional Repository

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• About Kent State…

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Kent State University

- The largest public research university in northeast Ohio
- Eight-campus system
  - In addition to our Kent Campus, we have regional campuses in Ashtabula, Columbiana County (East Liverpool and Salem), Geauga (Burton and Twinsburg), Stark (North Canton), Trumbull (Warren), Tuscarawas (New Philadelphia)
  - 41,005 students enrolled for the Fall 2015 Semester systemwide, with 28,981 at the Kent Campus and 12,024 at Regional Campuses
  - 3,000 International students from 111 countries
  - 2,000 full- and part-time faculty
  - 282 bachelor’s degree programs; 150 graduate and certificate programs
  - 7 complete online undergraduate degrees
  - 16 complete online graduate degrees
  - Over a dozen online certificate programs

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University Libraries

- 11.7M budget, divided by half between collections and operating
  - 2.2M for OhioLINK

- In addition to the main University Library, we have branch libraries on campus, including Architecture, Fashion, Map, and Performing Arts. Each Regional Campus has its own library.
Collaboration (Fall 2013)

• Library – Copyright Services, Reserve Services, and Technical Services
• Teleproductions staff
• Office of Continuing and Distance Education (OCDE)
• University Counsel member assigned for IP
• Student Accessibility Services

OBJECTIVE: To find a better way to handle video requests

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Collaboration (Fall 2015)

• Library – Copyright Services
• University Counsel member assigned for IP

OBJECTIVE: To draft a University policy on the use of copyrighted works.

Presented to and approved by:
• Faculty Senate
• President’s Cabinet
• Board of Trustees

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UNIVERSITY POLICY REGARDING USE OF COPYRIGHT-PROTECTED WORKS

• Effective January 19, 2016 (Spring Semester)

• [http://www.kent.edu/policyreg/university-policy-regarding-use-copyright-protected-works](http://www.kent.edu/policyreg/university-policy-regarding-use-copyright-protected-works)

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Flowchart for Streaming Video Requests

Does the instructor wish to use the entire film?

Yes

No

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• Flowchart, continued…

Is the film already licensed to us or do we have permission for online streaming?

Yes

No

Searching:
• KentLINK (OPAC) & OhioLINK
• Reserve records (Ares)
• Selection Manager
• ERM

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• Flowchart, continued…

Searching:
• For streamed product
• For licensing or permission to stream on our own

Purchase, if available at a fair and reasonable price.
• **Selection Manager**, collection development software

  - Patrons and staff can make requests
  - Notifies patrons and staff of stages of purchase
  - Records notes on purchase, including license terms

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• Acquisitions and/or Copyright Services
  
  staff search for a source:
  
  – Content providers
    • Kanopy
  
  – Web site for film
    • *An Inconvenient Truth*
    • *Helvetica*
  
  – Web site for publisher/producer
    • PBS
    • National Geographic

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• History Channel

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• Variety of Access Modes
  – Unique URL provided
  – Portal for Service
  – Extra passwords needed?
  – Authentication needed?
    • We will be moving from VPN to EZProxy – Spring 2016
    • OhioLINK Authentication
  – KSU Tube
    • https://ksutube.kent.edu/
  – Kaltura
    • https://video.kent.edu/

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• Variety of License Terms
  – Per course, per semester, one class only
  – Access for all courses
  – Access for all campuses
  – Campus-wide PPR
  – One semester only, or one or more years
  – Perpetual, PPR is ideal  ❤️
• Variety of Communications with Patrons
  – Selection Manager standard email
  – Personal email with URL or other access information
    • To faculty
    • To educational designer or instructional technologist
  – Ares system can send email regarding status of video resource

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Kanopy

Welcome to Kanopy, start watching now!

Staff Picks
- Consumerism & the Limits to Imagination
- Miss Representation
- Tough Guise 2: Violence, Manhood & American Culture
- Killing Us Softly 4: Advertising's Image of Women

Most Popular

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Swank Digital Campus

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Ambrose Video

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Alexander Street Press

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• Flowchart for Streaming Video Requests

Does the instructor wish to use the entire film?

Yes

No

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Does the instructor wish to use a “reasonable and limited portion of the work; a portion of the film similar to what would be shown in the face-to-face classroom”? 

Can we invoke the TEACH Act?

No
Can we invoke the **TEACH Act**?

Can the portion(s) be streamed without interfering with technological measures taken by copyright owners that prevent retention and distribution?

- **Yes**
  - Send through Search/License process.
  - Yes

- **No**
  - Send through Search/License process.
  - No
What if there is no streaming available…
   …or licensing…
   …or find the copyright owner…
   …or if we don’t get a response…?

What constitutes…
   …a “good faith effort”…
   …due diligence…?
Faculty are advised to use the LEAST amount of a copyrighted work necessary for the pedagogical purpose.

• TEACH Act

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ARL Code of Best Practices in Fair Use

- http://www.arl.org/focus-areas/copyright-ip/fair-use/code-of-best-practices
- Addresses:
  - When and how much copyrighted material can be digitized for student use? And should video be treated the same way as print?
  - Can libraries archive websites for the use of future students and scholars?
  - Supporting teaching and learning with access to library materials via digital technologies
  - Digitizing to preserve at-risk items
  - Reproducing material for use by disabled students, faculty, staff, and other appropriate users

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Fair Use Analysis for Videos

1. Kenneth Crews’ Fair Use Checklist
   [https://copyright.columbia.edu/basics/fair-use/fair-use-checklist.html](https://copyright.columbia.edu/basics/fair-use/fair-use-checklist.html)
   Adapted a PDF version for Kent State use, available at [http://libguides.library.kent.edu/videos](http://libguides.library.kent.edu/videos)
   Also useful are the Fair Use Evaluator at [http://librarycopyright.net/resources/fairuse/](http://librarycopyright.net/resources/fairuse/) and Exceptions for Instructors at [http://librarycopyright.net/resources/exemptions/](http://librarycopyright.net/resources/exemptions/)

2. We recheck to see if licensing has since become available.

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Fair Use Evaluator

http://librarycopyright.net/resources/fairuse/

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Exceptions for Instructors

http://librarycopyright.net/resources/exemptions/

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Fair Use Analysis for Videos

1. Purpose – all supporting Fair Use
   - Teaching
   - Research
   - Scholarship
   - Nonprofit educational institution
   - Transformative or productive use
   - Restricted access
Fair Use Analysis for Videos

2. Nature – supporting Fair Use
   - Published work
   - Factual or nonfiction based
   - Important to favored educational objectives

Nature – opposing Fair Use
   - Highly creative work
   - Fiction

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Fair Use Analysis for Videos

3. Amount – supporting Fair Use
   - Amount is appropriate for favored educational purpose

Amount – opposing Fair Use
   - Whole work used
   - “Heart of the work”
Fair Use Analysis for Videos

4. Effect – supporting Fair Use
   - User owns lawfully purchased or acquired copy of original work
   - No similar product marketed by the copyright holder
   - Lack of licensing mechanism

Effect – opposing Fair Use
   - Could replace sale of copyrighted work
   - Repeated or long-term use

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What about YouTube?

- Why do faculty always want to use YouTube videos?

Closed captioning

- 3PlayMedia - http://www.3playmedia.com/

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Getting the word out!

http://libguides.library.kent.edu/videos

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Statistics

- Budget:
  - $25,000 allocated in 2013
  - Increased to $30,000 for AY 2016
  - Spent thus far: just over $16,000
  - Spring 2015 video license/streaming fees ranged from $75 - $2,000 per title

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Statistics

– How many videos licensed for streaming?
  • 14 for Summer 2014
  • 36 for Fall 2014
  • 87 for Spring 2015
  • 38 for Summer 2015

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Useful discussion lists:

- **videolib**
  - [https://calmail.berkeley.edu/manage/list/listinfo/videolib@lists.berkeley.edu](https://calmail.berkeley.edu/manage/list/listinfo/videolib@lists.berkeley.edu)

- **LibLicense**
  - [http://liblicense.crl.edu/](http://liblicense.crl.edu/)
    - Including LibLicense-L

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Web sites:

• Scholarly Communications @ Duke
  – http://blogs.library.duke.edu/scholcomm/

• Supreme Court
  – http://www.scotusblog.com/

• techdirt
  – https://www.techdirt.com/

• Ars Technica
  – http://arstechnica.com/

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The Future…

• Will we still have physical copies?
  – Library spaces

• What if everything is licensed?
  – What happens to Sections 107, 108, 109, and 110?

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Questions?

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Image source: http://memegenerator.net/Hyperbole/caption

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