Copyright town meeting

Intellectual property and multimedia in the Digital Age

by Francis Poole

In the past few years questions have arisen concerning the legality of digitizing items in academic library video and multimedia collections and making them accessible via the Internet for teaching or research purposes. This is an area in which media librarians and other information providers will be increasingly involved as faculty and students begin to request Web access to such materials.

Many of us involved with moving image collections wish there were easy answers to the tangle of copyright infringement concerns resulting from the rapid growth of computer technology. Cases are widely reported in the news of Internet users downloading unauthorized copies of digital audio and video files. Napster and DivX come to mind as examples of the collision between "freedom of access" to the Internet and the rights of information producers to protect their work.

Most Web users are familiar with the little Quicktime or Windows Media Player boxes that enable viewing of video files. Although in many cases image quality is poor and items are slow to download, limited in duration, and jerky in playback, progress towards improving video streaming will continue. With new compression formats, such as MPEG-4, being developed, it will become faster and easier to stream high-quality video. The result is a greater need for libraries and the people in them who deal with multimedia formats to understand copyright questions involving the digitization and streaming of moving images.

So it was nice to learn that the National Initiative for a Networked Cultural Heritage (NINCH) was sponsoring the Copyright Town Meeting on Intellectual Property and Multimedia in the Digital Age. I registered weeks before for the September 24 meeting was to be held in the Celeste Bartos Forum of the New York Public Library. Of course, the September 11 attacks on the World Trade Center changed a lot of things, and I expected to find that the copyright town meeting in New York City would be cancelled or at least rescheduled. That was not the case. After a few days of back and forth exchanges of e-mails, the NINCH organizers decided to go on with the meeting as planned.

Security was tight at the New York Public Library, with attendees required to pass through metal detectors and undergo a bag search before entering the Celeste Bartos Forum. Paul LeClerc, president of the New

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York Public Library, welcomed the 150 or so attendees (out of some 350 who had preregistered) and thanked those from out of town for coming to New York in the wake of the September 11 tragedy. Among the attendees was ALA Past-President Nancy Kranich from New York University.

Intellectual property rights

The main issues of discussion at the September town meeting involved the assets and intellectual property rights of multimedia materials. The program was divided into two sessions: a morning panel to discuss rights of intellectual property owners in the digital environment and an afternoon panel on intellectual property users in the digital environment. Peter Kaszi, professor in the Washington College of Law at American University, gave the morning keynote address. Panelists were Ryan Craig of Warburg Pincus; Adam Eisgrau, principal and director of the Wexler Group; and Don Waters, program officer at the A. Mellon Foundation.

Linda Tadic, manager of the digital library at HBO and past-president of the Association of Moving Image Archivists (AMIA), gave the afternoon keynote address. The panelists were, Siva Vaidhyanathan, University of Wisconsin at Madison; Howard Besser, associate professor at UCLA; and E. Jane White, director of the International Children's Digital Library.

The panel representing the interests of intellectual property owners primarily tried to make a case for protecting the rights of the owners of copyrighted materials against unauthorized use of works which might negatively affect their clients' ability to obtain profits from such use. Digitizing multimedia materials and making them accessible on the Internet without compensation for such use obviously was a concern for them, as well as for the owners of rights and assets of such materials. The panel explained the difference between physical ownership of a copyrighted item and the intellectual property rights inherent in the contents of the item. These panelists, some of whom are attorneys, represented the copyright owners lobby in Washington, D.C.

The afternoon panel, representing the interests of intellectual property users, tried to make a case for reasonable access to multimedia materials in diverse collections through digitization and network applications.

Tadic gave a broad overview of the complicated nature of multimedia materials when trying to determine the various assets that may be protected by copyright. For example, assets in a film or video may include the book or play on which it is based, the script or screenplay, music and other audio, text, animation and special effects, and in the case of CD-ROMs, CD-Videos, or DVDs, any interactive components. Identifying who owns an asset can be very difficult as there are no copyright clearinghouses for film and video. Copyright search services can cost hundreds of dollars per hour.

Thus far, no agreement has been reached between producers and users as to what constitutes fair use of multimedia materials. For example, there has been debate and discussion about how much of a film or video could be digitized and used without permission in a teaching situation via the Web without infringing on copyright; the lengths debated ranged from 30 seconds to 3 minutes of an entire program. Unfortunately, librarians, educators, and other intellectual property users are left with the fact that this is still a touchy issue and has yet to be resolved to anyone's satisfaction.

Legislative issues

There was a discussion of the Digital Millennium Copyright Act (DMCA) of 1998 and how it has made things more confusing and restrictive for intellectual property users. Though, in principle, the DMCA endorsed the fair use exemption and its continuation in the digital age, it complicated the issue in other ways, such as with section 1201, known as the "thou shalt not hack" anticircumvention provision.

Another problematic piece of legislation is the Sonny Bono Copyright Term Extension Act of 1998, which severely limited the public domain by extending the term of copyright protection (in most cases to life plus 70 years). The intellectual property users' panel expressed the hope that the DMCA would soon be replaced by new law.

Other legislative issues still current include the Uniform Computer Information

Transactions Act (UCITA). UCITA is a proposed state contract law developed to regulate transactions in intangible goods, such as computer software, online databases, multimedia products, computer data and databases, online information, and other information products in digital form. It was designed to create uniform commercial contract law for these products and calls itself "a cyberspace commercial statute."

According to ALA, UCITA would, in effect, intersect federal copyright law. Its ratification could make it much more difficult for libraries to negotiate licenses that allow for the broadest use rights possible, including the right to lend, preserve, and make fair use of a work. UCITA is strongly opposed by the library community.

The Copyright and Fair Use Town Meeting on Intellectual Property and Multimedia in the Digital Age was a very useful and instructive forum. It is obvious that there is still a great deal of confusion, ignorance even, about the very basics of copyright and fair use and of how the Internet is likely to change and complicate them even further. A special thanks should go to the New York Public Library for its wonderful show of hospitality during a difficult time.

More information on NINCH and the Copyright Town Meetings is on the Web at http:// www.ninch.org. ∎

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covered elsewhere. *Access:* http://www.sci.fi/~phinnweb/links/philosophy.html.

• **Post World War II American Literature and Culture Database: Genres.** Sponsored by the University of California, Berkeley, English Department, this site includes sections on bibliographies, postmodernism, feminism, multiculturalism, queer, and popular culture. The bibliography section of this site is searchable. This resource is particularly useful for its links to theoretical studies of contemporary American authors. *Access:* http://english.berkeley.edu/Postwar/genres.html.

• **Sites of Significance for Semiotics.** This site provides access to essays, glossaries, and online resources related to semiotics. *Access:* http://www.chass.utoronto.ca/french/as-sa/EngSem1.html. Also useful for this topic is David Chandler's Semiotics for Beginners at http://www.aber.ac.uk/media/Documents/S4B/semiotic.html.

• **Studies Resources: Feminist Theory.** Compiled and edited by Karla Tonella at the University of Iowa, this extensive resource site offers access to articles, bibliographies, and societies, as well as reviews of feminist theory books and images of women philosophers. *Access:* http://bailiwick.lib.uiowa.edu/wstudies/theory.html.

Electronic journals

• **CT Theory.** This weekly online periodical, an international journal of theory, technology, and culture, provides articles, interviews, and book reviews in contemporary discourse. Past articles of the journal are searchable and readers can make a request to receive each issue automatically. *Access:* http://www.ctheory.com/.

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• **Other Voices: The (e)Journal of Cultural Criticism.** A full-text publication issued free by the University of Pennsylvania, Other Voices publishes essays, interviews, roundtable discussions, lecture transcriptions, multimedia projects, translations, and reviews devoted to cultural criticism in the arts and humanities. *Access:* http://www.othervoices.org/.

• **Postmodern Culture.** Issued since 1990, this entirely Web-based scholarly journal presents an interdisciplinary approach to contemporary culture, theory, and the humanities. The current issue and previous issues, which include essays and book reviews, can be accessed in a free text-only archive, but the complete searchable text with graphics is also available on Project Muse. *Access:* http://jefferson.village.virginia.edu/pmc/. ∎