UR Copyright Service

Over the past decade in Canada copyright has become not only a hot button issue in academe, but an increasingly volatile risk for educational institutions to manage. In this context two trends have emerged. First, post-secondary institutions are moving away from a licensing agreement with Access Copyright. Second, as they do so these institutions have developed policies, procedures, expertise, and services to assist faculty and staff in addressing copyright issues and mitigating the risks in a litigious environment. It is in this context that the University of Regina continues to work towards improving the services available to faculty as they manage copyright risks in the course of their teaching and research. As the university looks to a future without an Access Copyright licence, a new copyright service aimed at supporting use of UR Courses is being launched. This service will operate in relation to the university’s use of copyrighted materials policy (GOV-050-010); and will assist faculty members in complying with this policy.

Goals:

The various elements of this new copyright service seek to integrate and balance a number of different goals.

- It seeks to incorporate the advice of the university’s legal counsel on managing the risks of not signing another licence with Access Copyright and other copyright related risks that already exist related to rights holders and collectives beyond the AC repertoire.
- It seeks to provide faculty with a simple way to gain confidence and peace of mind related to their use of third party materials. Those who take advantage of the service will not have to wonder if they are accruing legal liabilities; they will have confidence that their use of materials is sound from a copyright perspective.
- It seeks to save the time of faculty and/or their departments by centralizing the placing and tracking of permissions requests.
- It seeks to consider the practices and lessons learned from copyright services at other post-secondary institutions while also considering the particulars of our context.
- It seeks to integrate as smoothly as possible into current library operations and envisions that the library will continue to be the host unit for copyright services in the long term.
- It seeks to create efficiencies by building a database of vetted and cleared third party materials.
- It seeks to inform evidence-based decision making on copyright education, future licensing, and university services.
- It seeks to provide the university as a whole the confidence that a substantive sample of copying or other use of third party materials is copyright compliant, thus mitigating potential liabilities.
- It assumes that faculty can and will exercise their judgement in determining what kinds of activities could produce potential liabilities and thus should be submitted for assessment.
Important Considerations:

Both individual faculty members and the university bear potential risks and liabilities when copyright protected works are used without permission of the copyright owner. This service (as part of a larger copyright strategy) ultimately aims at assisting faculty members and the university in mitigating those risks.

This service does not replace the need for faculty members to be aware of and educated about the implication of copyright in their research, teaching, and other professional work. The university will continue to offer training, educational, and advisory services to faculty members on copyright issues.

This service targets the university’s learning management system and provides assurance to faculty members as they make use of the service. Use of means other than the learning management system to distribute copyright protected works to students without use of the copyright service could expose a faculty member to increased legal risk.

Legal risks relative to copyright exist in the professional work of faculty members outside of distributing materials to students; the Copyright Officer is available to advise faculty members on mitigating those risks as well.

Part One, Copyright Assessment:

Faculty would submit third party items\(^1\) into the ARES module within UR Courses. This would be done by uploading a file, entering citation information, or providing a hyperlink to a resource that will be copied or uploaded. In the broadest terms, those cases where a potential for copyright liability exists should be assessed by the copyright service, while those cases that don’t implicate copyright need not be assessed. Materials provided by a publisher (e.g. test bank, presentation slides) in support of an adopted textbook should be used in accordance with the terms and conditions of that agreement, but need not be assessed by this service, as that licence rather than the Copyright Act prevails for the use of those resources.

Some examples of the kinds of resources that should be assessed (when being copied or uploaded) would include:

- an extended section or full chapter from a monograph
- multiple charts, graphs, or images from the same textbook not adopted for the course
- a journal article
- a case study
- an entire report, white paper, or similar document
- a song, video or other audio/visual recording

\(^1\) That is: works or substantive portions of works where the copyright owner is neither the faculty member or university.
Some examples of the kinds of resources that need not be assessed would include:

- course/lecture notes, presentation slides, or the equivalent that have quotations, charts, images, maps, or graphs integrated into them (unless significant sections are directly copied from a single source)
- Any works entirely created by the faculty member
- Links to sources external to UR Courses (e.g. link to a library resource, link to a website)
- Videos being shown in class but not copied or uploaded
- Music being played/performed in class but not copied or uploaded
- Slides or other media being displayed in class but not distributed/uploaded
- Physical handouts distributed in a classroom
- Open educational resources or other open access and creative commons licensed works
- Any use of works in the public domain

The copyright service staff would work to assess the copyright status of each item. In cases where permission would be required, the clearance work would be done by the copyright service staff and the faculty member informed when permission is obtained from (or rejected by) the copyright holder.

Ideally, the assessment would be completed in advance of the item being used or made available to students. However, in order to accommodate the realities of last minute changes or additions the assessment can happen during the semester while the material is already available to students. It is possible that circumstances may arise where an item will need to be “taken down” for a short period after having been made available while permission for use is being sought.

The service would be led by the copyright officer, but library support staff would also be involved in delivering the service. The goal is to cross-train within the library unit so that the service will continue to function in the absence of individual staff involved in the process and to increase the overall capacity of the service and resident expertise on copyright.

The ARES software is designed to keep faculty informed on the exact status of all their items in real time. Upon entering the ARES module in UR Courses, any items entered in the system will show the current status or point in the assessment queue. Thus, faculty will see at a glance which items are awaiting assessment and which have already been assessed.

**Part Two, Copyright Survey:**

The copyright survey would be conducted by the copyright officer or another in-scope library staff member under the direct supervision of the copyright officer. The copyright officer would randomly generate a list of courses to be surveyed at the start of each semester. The survey would include both online and face-to-face courses using UR Courses.
A list of faculty members whose courses had been surveyed would be kept by the copyright officer for one year only to ensure that the same faculty member would not have a course surveyed twice in the same year. This list would be kept privately by the copyright officer and destroyed after one year. It is the course on UR Courses that is the subject of the survey, not the faculty member as an individual; this list only seeks to prevent the randomization of the survey from inadvertently “over-surveying” the courses of a particular faculty member in a short period of time.

The survey itself would involve the copyright officer entering a course instance on UR Courses and identifying all third party uploads into the LMS and ascertaining their copyright status. Materials such as faculty member’s own course notes or other course materials developed by the faculty member or university, links to library resources or external websites, submissions by students, and discussion forums would not be included in the survey. The copyright survey would compile information in the aggregate about copying practices across the university community by collecting two kinds of data. One would be a categorization of the kinds of materials posted in UR Courses by source type (e.g. book chapters, journal articles, video files, audio files, images, etc.). Second would be a categorization of the copyright status of materials posted in UR Courses (e.g. fair dealing, open access, creative commons, library licence, permission granted, etc.)

This survey would also provide the opportunity for the copyright officer to bring any potential copyright problems to the attention of a faculty member and work with them on a solution. It is anticipated that in most cases, this would be by placing a permissions request to the rights holder (rather than a takedown).

While aggregate information will be compiled, information about the specific activities of faculty members will not be part of the permanent record. Deans would not be made aware of which members (if any) of their faculty were surveyed. The only exception to these two statements would be in the case of a failure to comply with the attending university policy (GOV-050-010).

Benefits:

A number of benefits are anticipated as an outcome of implementing the copyright service. These include:

- It will provide faculty with a simple way to gain confidence and peace of mind related to their use of copyright protected materials.
- In cases where faculty are currently not making use of certain materials for fear of copyright infringement, this service will give them confidence that the use is either non-infringing or will acquire the permission needed to make it so.
- In cases where faculty might be inadvertently infringing copyright the service will assist them in avoiding potential liabilities.
• It will reduce the risk of facing infringement litigation for both the university and individual faculty members.
• Over time it will create efficiencies over how the university currently manages copyright permission clearances.
• It will provide the university with data to inform evidence based decision making on licensing and copyright management decisions.

Records Management:

The copyright officer is currently working with Records and Information Management to schedule (define in policy) how records created by the copyright service will be stored, managed, retained, and disposed.