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**Case Studies**

**Introduction**

This paper describes two different fictional scenarios and how each scenario relates to copyright law. The first scenario involves a professor’s role in scanning and releasing an out of print book on the university’s course management system. The second scenario concerns a student scanning and releasing copies of Dilbert cartoons on a website. Finally, this paper compares and contrasts the two fictional scenarios.

**Scenario One and Copyright Law**

Our first scenario describes a professor who has been using a particular book for his course, but it’s now out of print. He asks his assistant to scan the book through the library’s new book scanner. Then the assistant places the digital file on the university’s course management system to make it available for the professor’s distance learning students.

Are the actions taken in this scenario lawful? Scanning the book creates a new copy of the book in a new media form. The right to make copies or reproduce the book belongs to the copyright holder (U.S. Copyright Office, n.d.a). Placing the digital copy of the book on the university’s course management system essentially distributes this copy to the professor’s distance learning students. The right to distribute copies of the book belongs to the copyright holder (U.S. Copyright Office, n.d.a). If the professor or the institution holds the copyright, the actions taken are lawful.

This use may constitute infringement in the case that a different copyright holder owns the rights, even for out of print books. Assuming a publication date of the book on or after January 1, 1978, the copyright holder retains the exclusion reproduction rights (U.S. Copyright Office, n.d.a). If the publisher owns the rights, the term lasts 95 years from the year of first publication or a term of 120 years from the year of creation, whichever expires first (U.S. Copyright Office, n.d.c). If the author owned the rights, the ownership exists for life and 70 years after (U.S. Copyright Office, n.d.c). Even after the author’s death, heirs may now own the rights to this book (U.S. Copyright Office, n.d.c). Given the circumstances, the copyright holder’s rights are still in effect.

The professor definitely cannot claim the fair use exemption. The use of works for an educational purpose such as the professor’s use does fulfill the purpose rule of the fair use exemption (U.S. Copyright Office, n.d.b). The fixed nature of this completed book fulfills another component of fair use (Fair use, 2017). An out of print book has no commercial value that this use could interfere with (U.S. Copyright Office, n.d.b). However, fair use does not apply to this case as the professor uses the entire work, not just an insubstantial portion (U.S. Copyright Office, n.d.b). In the case an entity other than the professor or the institution own the copyright, this use could constitute infringement (U.S. Copyright Office. (n.d.d). I believe such proceedings are unlikely as the copyright owners allowed the book to go out of print.

**Scenario Two and Copyright Law**

Our second scenario involves a student who scans Dilbert cartoons from the newspaper and uploads them onto a Web page. No further details are given. The number of cartoons and the purpose of the website are unknown.

Are the actions taken in this scenario lawful? Scanning the cartoon creates new copies. The right to make copies or reproduce Dilbert comics belongs to the copyright holder (U.S. Copyright Office, n.d.a). Placing the digital copies of the comics on a web site essentially distributes these copies to everyone searching for Dilbert on the internet. The right to distribute copies of the comic belongs to the copyright holder (U.S. Copyright Office, n.d.a). Dilbert cartoons are the property of Universal Uclick (http://dilbert.com/terms). The student clearly does not own the copyright to the Dilbert cartoons and the possibility this constitutes infringement exists. The student most likely does not represent the newspaper where the comics appeared, another blow to the legality of these actions.

Fair use may not apply in this case. The fixed nature of these comics does fulfill the component of fair use related to the nature of the work (Fair use, 2017). Fair use may still apply to this case if the website uses the cartoons for criticism, comment, or scholarship (U.S. Copyright Office, n.d.b). The student could debate the comics on the website are insubstantial given Scott Adam’s entire work of Dilbert comics and fulfill the substantiality test (U.S. Copyright Office, n.d.b). However, the copyright holder could argue that the use of each individual comic constitutes a substantial portion of that work (U.S. Copyright Office, n.d.b). For the commercial test, the student may contend that the website does not have enough traffic to hurt other publication of Dilbert cartoons. The copyright holder could argue that any comics freely available on the internet can harm the market for these same works.

**Comparison and Contrast of the Two Scenarios**

Let’s start with the similarities between the two scenarios. The reproductions of works using scanners and distribution of those works on the internet are key points in both scenarios. The reproduction and distribution described in both scenarios could constitute infringement if the copyright holders did not grant permission for these uses (U.S. Copyright Office, n.d.d).

Lack of describing what actions to protect the professor, institution, or student from liability comprises another similarity. The library could help the professor obtain either permissions for use or a license to this book. On the official Dilbert website, the student could purchase the rights to use the comics legally (Universal Uclick, 2017).

The extent of the exposure differs between the two scenarios. The professor’s use at least limits the access to the institutions’ course management system. The student shares the comic with the entire worldwide internet community searching for Dilbert cartoons. How courts would consider this difference could affect the outcome for the professor and the student in the course of infringement proceedings.

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