SIX SCENARIOS
(21 subparts)
FOR PRESENTATION
at
BOCES WORKSHOP
EVENTS
IN
OCTOBER, 2014
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SCENARIO #1:
Internet Celebrity Pictures, Your Video Yearbook & the Volleyball Captain

SCENARIO #1-A
Your students are assembling the school’s 2015 video yearbook under your direction. Included is a piece about the Volleyball Captain, who they think looks just like Katy Perry. They secretly intend to use music from Katy Perry’s last album, in addition to the properly licensed Soundzabound music for the video. They download a profile picture of Katy Perry from an Internet website that states that “all pictures are free; nothing is copyrighted.” They want to use it as a joke in the yearbook. You don’t believe that the picture is copy-right-free and therefore you tell them they can’t use it. The students talk the Volleyball Captain into dressing up just like the picture and then photograph her in profile, captioning it “Katy Perry Was Here!” Which legal ruling below applies to this use of this photo for the Volleyball Captain? How will you decide?

1. The Wizard of Oz lithographs.
2. The Skyy Vodka photographs.
3. The Bridgeman Art Library transparencies and digital images.
4. None of them.
5. Since the photo is being used in a video yearbook, is it still “tangible” for copyright purposes?
6. Do you have to worry about the “Katy Perry” caption?

SCENARIO #1-B
The profile picture of Katy Perry downloaded by the students is split into a mosaic of repeating blue and green diamond shapes, with overlays of magenta wash. Your students duplicate it this, using the photograph of the Volleyball Captain. What legal ruling below applies to the use of this photo? Will you allow them to do this?

7. The Wizard of Oz lithographs.
8. The Skyy Vodka photographs.
10. None of them.
11. Since the photo is being used in a video yearbook, is it still “tangible” for copyright purposes?
12. Do you have to worry about the “Katy Perry” caption?

SCENARIO #1-C
You have to leave early to take your dog to the vet, leaving the students to finish a few details. Unbeknownst to you, the students put both of the original Katy Perry photographs into the video yearbook along with the pictures of the Volleyball Captain. They upload the yearbook onto the school website, which is hosted by a third party internet service provider (ISP) at no cost to the school. Three weeks later, the ISP receives a “take-down demand” from Katy Perry’s lawyers, pursuant to the Digital Millennium Copyright Act (DMCA). The ISP takes down not only the Katy Perry photographs but also the Volleyball Captain’s Profile pictures and sends an unpleasant email to the School Administration regarding copyright violations. They are no longer willing to host the School’s website for free. Even worse, you are...
asked to go to the Administration Office on your planning period to explain a letter that has just arrived from Katy Perry’s attorney, demanding $10,000 from you personally and another $10,000 from the School Board for putting your students’ “four pictures of Katy Perry” on the school website. You are confused and worried about this turn of events.

13. Did the ISP act correctly in taking down Katy Perry’s pictures?
14. Did the ISP act correctly in taking down the Volleyball Captain’s pictures?
15. What remedies do you (and the school) have for #13 or #14 if you conclude that the take down was improper?
16. What will you recommend that the School do with the $10,000 demand from Katy Perry’s lawyer?
17. What will you recommend that the School do about the ISP’s cancellation of the free website service?
18. Do you (or the school) have any claim against the yearbook-creating students or their parents?
19. Are you legally responsible for the students’ putting up the photographs of Katy Perry? Is the School?
20. Would your answer be different if you failed to instruct the students not to use the Perry photograph?
21. How are you going to handle these problems?

SCENARIO #1-D
Unbeknownst to you or the School, several students have re-posted all 4 pictures on Facebook, Pinterest and other social media sites, where the pictures immediately go viral. The Volleyball Captain is in the Administration Office when you arrive. She is in tears because she was fired yesterday from her job as the billing clerk at a local Botox clinic. Her employer saw her pictures on Facebook and decided that they didn’t want “someone who looks like that” working in a confidential position at their office. You did not know that she had a job. She is worried that her car will be repossessed because now she cannot afford to make her car payment and her parents cannot help her with that.

22. Do you or the School have any legal responsibility for the Volleyball Captain’s being fired or the potential repossession of her car? Is there anything you or the School should have done in advance in anticipation of any problems? Does it matter that you did not know she had a job?
23. What are your (or the School’s) legal responsibilities (if any) to keep photographs of students, or photographs by students, away from social media sites?
24. Do you (or the School) have any legal responsibility for the re-posting of the Katy Perry photographs to the social media site?
25. What do you plan to do about removing the Volleyball Captain’s photographs from Facebook, Pinterest, and the other social media sites?
26. What do you plan to do about removing the Katy Perry photographs from Facebook, Pinterest and the other social media sites?
SCENARIO #1-E
Can things get worse? Of course they can! You are called down to the Administration Office again. The Volleyball Captain’s pictures have been modified and put on a sexually explicit website, with her head on a naked woman’s body. You don’t know if the pictures were taken from the on-line School Yearbook or from one of the social media sites. Apparently, the Volleyball Captain and her family have not yet found out about this and the School Administration is asking you to “fix” the problem before there is a lawsuit.

27. Do you have any legal responsibility for this turn of events?
28. Does the School?
29. What will you recommend that the School do to remove the pictures from this website?
30. What will you recommend that the Volleyball Captain and her family do regarding this website?

SCENARIO #1-F
While you are at the Administration Office, the Principal receives an email from someone claiming to be the photographer who took both pictures of Katy Perry. That photographer congratulates your students and you on how cleverly they have parodied her work and wants to come to talk with your class. She does not raise any copyright problems or, in fact, any other problems. You burst into tears of relief.

31. What will you recommend to the School to protect it against copyright infringement claims by the photographer?
32. What will you recommend to the School regarding a copyright interest (if any) by the yearbook students in their version of these photographs?

SCENARIO #1-G
You are looking fondly at the on-line School Yearbook and suddenly realize that you are hearing music by Katy Perry rather than the properly licensed music from Soundzabound. You briefly consider moving to a foreign country which does not have copyright laws, but realize that you can’t take your dog with you so that career option is closed.

33. How many different copyright interests are involved in this musical performance?
34. Can you claim “fair use” under the Teaching Exception?
35. Can you claim “fair use” under the “Criticism and Comment” Exception?
36. Can you claim the use is legal under either the TEACH Act or the Face-to-Face Exemption under Section 110 of the Copyright Law?
37. If none of the above possibilities are open to you, what steps would you take to legitimize this usage?
SCENARIO #2:
CHARLIE CHAPLIN, YOUR E-BOOK AND GETTING RICH ON VIDEOGAMES

SCENARIO #2 -A
You write an e-book on the technical aspects of converting Charlie Chaplin movies (made in America) into videogames. You are the school media arts specialist.
1. Who owns the copyright in your e-book and why?
2. What happens if you license the copyright to your e-book to a traditional publishing house?
3. Can you legally incorporate clips from Charlie Chaplin’s movies into your e-book? What laws would you consider in making this decision?

SCENARIO #2 -B
Same scenario, but you are a part-time swim instructor, not the media arts specialist. You write this book in your spare time. You don’t get around to filing for copyright protection with the Copyright Office.
4. Who owns the copyright in your book? Why?
5. What happens if you license the copyright to your e-book to a traditional publishing house?
6. You self-publish the book through Amazon but do not read the very long licensing agreement before clicking “yes”. Amazon notifies you that they have received a copyright infringement demand from the Estate of Charlie Chaplin. What steps will you take to address Amazon’s concerns? What steps will you take to address the Estate’s concerns? Is your usage covered by Fair Use or another copyright exemption or exception? Does it matter (legally) that you didn’t actually read the license agreement?

SCENARIO #2 -C
Chris Kringle uses your e-book to actually create Charlie Chaplin videogames... and makes $$$! Both Chris and you are suing by the Estate of Charlie Chaplin for copyright infringement.
7. Does it make a difference, legally, whether he purchased the e-book legally or illegally downloaded it through You- Tube?
8. What else do we need to know to figure out if Chris violated your copyright?
9. Are you legally responsible for Chris Kringle’s attorney fees and costs? Why or why not?
10. Do you have to get permission from, or pay the Estate of, Charlie Chaplin for non-copyright issues? Why or why not?

SCENARIO #2 -D
Shift the scenario to your on-line course at Fantastic High School in upstate New York. You have asked the School Library to put these film clips, plus material from how-to books on game development, on e-reserve for your course. The entire curriculum for your class involves the students assembling the e-book.
1. Would any of your answers, above, be different if this was a school-based educational activity rather than an individual e-book? Consider Fair Use, the Georgia State case and the TEACH Act.
SCENARIO #3:
AN ORIGINAL THIRD-GRADE THANKSGIVING MUSICAL & THOSE SPECIAL EFFECTS
Each year, your third-graders write and present an original Thanksgiving musical, using music from Soundzabound. You help, of course. The middle-school digital video crew tapes it and adds great special effects. It runs on Ensemble over... and over... and over again. Um, did anyone actually see those special effects in advance? Where did they come from? It turns out that the digital video crew taped an on-line video game from the Spawn Series, froze various individual frames from the game, showing HellSpawn and others, and then put the characters and their backgrounds through Photoshop to create “interesting” backgrounds for the musical. They also copied special fonts from a font website and have not added the creative commons copyright which accompanies those fonts. You begin to reconsider your decision to move to that foreign country with no copyright rules, when the first parent of a third-grader emails you that his daughter is not Tiffany Spawn.

1. Who owns the copyright to this musical?
2. Would your answer change if the students are high school seniors?
3. How many different copyright interests are there?
4. Any problems with the musical licensing components here?
5. Any problems with storing this content on school computers and running it continuously?
6. Any problems with using the characters from the Spawn series? How would you address these problems?
7. Any problems with unpleasant or embarrassing “special effects” added to children in the play?
8. What is your liability, if any, to the school or the children for copyright violations and/or invasion of privacy?
SCENARIO #4:
THOSE FAMOUS KID WIZARDS, FAN FICTION AND E-RESERVE

Your language arts students are studying how to write satires by reading excerpts of famous books and then reading fan fiction about those same books. This year it’s a face-to-face course.

Scenario 4-A
You put three chapters of the first four Harry Potter books on e-reserve for them to read. You also provide the students with the fan fiction hyperlink https://www.fanfiction.net/s/10644439/7/Hogwarts-School-of-Prayer-and-Miracles to read excerpts from the online fan fiction work “Hogwarts School of Prayer and Miracles” as part of their homework. They are to write their own satirical works, using either or both of these resources.

1. Is your use of the e-reserve system a violation of copyright? Why or why not?
2. Would your answer be different if you had put one-third of the book, in non-consecutive chapters, on e-reserve?
3. Is your requirement that the student use the hyperlink to read the work “Hogwarts School of Prayer and Miracles” a violation of copyright? Why or why not?
4. Is fan fiction legal or a violation of copyright? Why?
5. Are your students violating the copyright of the fan-fiction writer if they write a satire of the fan fiction piece? Why or why not?
6. Would your answer to #5 be different if the students dressed up and performed their parodies of the fan fiction writer as part of their assignment?
7. Would your answer to #5 be different if the students performed their parodies of the Harry Potter books?
8. Your students put their satires of the “Hogwarts School of Prayer and Miracles” on a School website (not the Hogwarts website). What legal complications can arise, and how would you address them?

Scenario 4-B
Would your answers to questions 1 through 8 be different if this were a distance learning-only course?

Scenario 4-C
Knowing that your students are working on a Harry Potter assignment, one of your fellow teachers brings in a “Redbox” copy of “Harry Potter and the Chamber of Secrets” for your students to watch on a day when you are out of school at a copyright conference. One of the students takes an excerpt of this movie for a multi-media presentation he is working on for another class.

9. Were the teacher’s actions permissible under copyright or any other applicable law?
10. If no, what scenario would have allowed the teacher to legally do what he did?
11. Explain the issues regarding the student’s multi-media presentation and what types of defense you could or would make to any claims.
SCENARIO #5:
NOT THE FAMOUS-VIRTUAL-RAMAPO-ISLANDS-PROJECT

You have just returned from an Internet-Based Learning Game Conference in Las Vegas. Your school district has agreed, on your recommendation, to purchase an internet-based simulation called “MollyWorld” in which the users appear as digital characters known as “avatars” and then interact with a computer-generated environment to create an entire virtual world.

Scenario 5-A

Unfortunately, when the software arrives, your IT person is busy doing computer updates throughout the school and cannot help you upload the discs in proper sequence. Frustrated, you take the discs home along with the instruction manual to try to make the game work on your home computer. You leave the discs on the dining room table when you go out with friends for dinner. Your roommate takes the discs, along with the instruction manual, and loads everything onto his/her computer to play the game. He/she re-seals the package and clandestinely returns the discs to the table before you get home. You take them into work the next day. When the IT person tries to load the discs onto the school computer, he/she gets an error message that the license is already in use on another machine. You two confer and decide the error message is wrong. Your IT person assures you that he/she can make it work by reverse engineering parts of the software and asks your permission to do so. You feel this is ok, because the district obtained the discs legally, obviously there is just some glitch somewhere and you really need to get going on this project with your students. He/she goes ahead. It now works. Your class is a hybrid on-line and face-to-face class, and you use the discs strictly for educational (not entertainment) purposes.

1. Can you legally use these discs pursuant to the TEACH Act? Why or why not?
2. Was your roommate’s action ok under the copyright laws?
3. Is the fact that you were unaware of your roommate’s theft a factor in your analysis? Why or why not?
4. Can you legally use these discs pursuant to the face-to-face teaching exemption (Section 101 of the Copyright Act)?
5. Can you legally use these discs under fair use (teaching) or fair use (criticism and comment)?

Scenario 5-B

Your students have the ability to insert pictures and video into MollyWorld through a special wand which comes with the program. Under your supervision, they go to YouTube as well as various Twitter photograph feeds to find pictures of the devastation following the 2010 earthquake in Haiti. None of these works have a copyright notice or any indication that anyone owns them. One of your students wants to be an emergency aid person when she grows up, so she decides to put 22 of the 25 available pictures on one website through Photoshop and then put them into a video, with music downloaded from an illegal off-shore radio station, to use with her college application. After she accomplishes this, she uses the special wand to upload the product into the virtual world. You give her an “A.”

6. Can the student legally use these photographs? Why or why not?
7. Can the student legally alter the photographs? Why or why not?
8. Are there any other issues with the facts set out in this paragraph? How would you deal with them appropriately?

9. Can this production be uploaded to YouTube without violating copyright laws? What about uploading it to the school’s intra-net?

10. Can this production be stored for use in future classes, face-to-face? What about for use in distance learning classes?

11. Do you have any concerns about using the music from the illegal off-shore radio station?

**Scenario 5-C**

One student uses the discs to create a virtual world where all villains are wiped out. In putting together his video program, he utilizes Manuel Noriega as the “bad guy” who shoots good people, sells crack cocaine and performs various acts of hideous wrongdoing on the island. He uses footage of Noriega in Panama from the Library of Congress. He also uses what appears to be news footage from an unknown source, perhaps somewhere in Central America but it is not clear. He uses music from an American grunge band’s website. Whoever kills the “bad guy” gets Platinum Star Status within the game.

12. Does Noriega have a claim for invasion of privacy or defamation?

13. Are there any copyright issues with what this student has done?

14. What can the School or the student do with this game without violating copyright or other laws?

15. How many copyrights are involved with the music website and can the student legally use this music?

**Scenario 5-D**

Nervous Nan wishes to incorporate part of a PowerPoint into the virtual game. She carefully researches the age of various photographs and moving pictures incorporated into the Power Point and discovers that they are, indeed, in the public domain. Without asking permission of the person who put together the PowerPoint, she lifts the first 10 slides completely and puts them into the game.

16. Is there any problem with this approach under theories of public domain, copyright, or a copyright exemption or exception?

17. How would you handle this matter?

**Scenario 5-E**

You hire Candace, a local programmer, to assist you with developing some basic avatars to get the game going. She agrees to work for free and the two of you spend three afternoons after school putting together various software characters and basic virtual geography. She adds an aerial outline of the Rock and Roll Hall of Fame Building in Cleveland as shown on Google Earth. She and you get along pretty well and agree that your collaborative effort was a success, although you continue to work on the project for another week without her help and without her knowledge. The students contribute various changes and upgrades to the game which are all really cool. The project turns out so well that you enter it into a local gaming contest and win first prize of $300. You keep the money, because you have ditched your roommate after finding out that he/she used your game discs without telling you and you need rent money. You enter the game into a nationwide contest sponsored by the manufacturer and again win first prize, which is a trip to Paris, all expenses paid. The game manufacturer uses this project as a springboard for further research and development, unknown to you. A year later, you are again at the
Las Vegas Convention when you see your version of the game featured in the manufacturer’s booth. Excited, you call Candace from the show and are surprised when she becomes angry. She demands half of the prize money and half of the value of the trip to Paris (which you thoroughly enjoyed with a special friend). She sends an email to the School District, you and the game manufacturer that you all have violated her copyright interest.

18. Using theories of fair use (teaching), fair use (criticism and comment), Section 110 (face-to-face teaching) and the TEACH Act, explain your defense against her demand.
19. Explain whether the game manufacturer will be held responsible for copyright violations.
20. Do you have copyright concerns with using the outline of the Rock and Roll Hall of Fame?
21. Do you see any other legal problems here?
22. Do you think that you will finally be getting that special trip to work in a foreign country with no copyright laws.... with or without your dog?

SCENARIO #6:
FILM CLIPS, FRANCIS FORD COPPOLA, AND THE TEACH ACT

You are teaching an on-line course which includes a unit on cultural diversity among first-generation Americans. As part of that course, you properly include short clips of “The Godfather, Part One”, “The Great Gatsby,” and “Captain EO”, all directed by Francis Ford Coppola. Your course syllabus shows that the students are to view several short clips from all of these films at three week intervals throughout the course.

1. Is this a violation of the TEACH Act? If yes, how would you “fix” it?
2. Can you access these clips for a class in the fall, and then again for a separate class in the spring?
3. Can you hyperlink to an internet article regarding cultural diversity without violating copyright requirements?