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A Textbook Example: What *not* to do when books are scarce and money is slim

By Carrie Russell -- School Library Journal, 2/1/2009

Since we don't have enough textbooks for every student, our principal says it's fine to scan one of the books (or at least the seven or so chapters that we plan to use) and post the material on our school's Web site or email it to the 85 percent of our students who have online access. I'm uncomfortable with that plan because I'm not sure if it's legal. Can you please advise us?

—Melanie Bilodeau-Meek, social studies teacher
Albert D. Lawton School, Essex Junction, VT

I assume your school doesn't have enough money to purchase a textbook for every student. But, alas, it's still an infringement to copy a large portion of a textbook. What's the alternative? You could call the publisher to see if you could get a discount on the textbook or permission to copy it, but that's unlikely since the textbook industry, like many others, is struggling. With education costs running so high, many schools are now turning to **open-access** textbooks and online curriculum materials. Whether this is a viable option for educators and students—and ultimately has an impact on the textbook market—remains to be seen.

As part of a weeklong celebration of reading, our elementary school recently had a visit from a well-known children's book creator. One of our teachers decided to make staff T-shirts that featured artwork from the illustrator's books. Luckily, no one wore the shirts on the day of the visit, so she didn't see her drawings proudly displayed on everyone's chest. Did we violate the copyright law? Should we avoid repeating this practice in the future?

—Rhoda Whitman, librarian
Quaker Farms School, Oxford, CT

Yes, the teacher's T-shirts were a copyright infringement. They violated the copyright holder's reproduction and public display rights. Even though the T-shirts aren't for sale, it's hard to argue that this is a fair use. After all, it's not educational or "socially beneficial." Plus, the creative nature of the illustrations strongly argues against fair use. Also, since people purchase T-shirts with children's book illustrations, one could argue that the teacher's project adversely affected the potential market for T-shirts with the artist's illustrations. Although many children's book creators receive compensation for the use of their artwork on T-shirts, many illustrators give permission to use their drawings because it promotes book sales. Next time you have a children's book creator visit your school, ask for permission to use the artist's illustrations beforehand. Then it won't matter how many staff members are seen wearing them!

Since we're supposed to have licenses for showing movies and playing console games (such as those for an Xbox, Nintendo or PlayStation) in the library, do we also need a license for playing copyrighted board games at our gaming events?

—Tina Hardister, information technology manager
Bob Herzfeld Memorial Library, Benton, AZ

No, you don't need a license to play board games in the library. However, I wouldn't put it past some enterprising

rights holders to try to make folks buy one—so don't give them any ideas! According to the terms of most console or digital games' licenses, the games are intended solely for personal, noncommercial use. So technically speaking, when you play them in the library, you're violating their licenses—but you're not violating the copyright law. If you're concerned about breaching the licenses, you could always contact the games' publishers and ask them for permission to play their games. Who knows? Maybe they'll say it's fine for you to use their products. (Of course, they could also deny you permission—or even ask you to pay a fee!) But at this point in time, it's not necessary to contact them. Unlike movies, which require a license to be shown at library events, you're not required to obtain permission to play board games. And that's a good thing! It's in our best interest not only because it saves us money, but because having to seek formal permission often undermines fair use, or at least makes us assume that we don't have fair use. From a legal perspective, playing console games in the library is a very, very low-risk venture.

Author Information

Carrie Russell is the American Library Association's copyright specialist. She will answer selected questions from readers. Send questions to slj@reedbusiness.com, with "copyright" in the subject line. Be sure to include your title and the name of your school or public library. Note: Carrie's comments are not to be considered legal advice.

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