GUIDELINES FOR STUDENTS, DEVELOPERS AND EDITORS

USING TRADEMARKS AND COPYRIGHTED WORKS IN COURSE MATERIALS

(2017)

Intellectual Property

Intellectual Property (IP) refers to intellectual creations for which the rights are legally assigned to the owner and protected by national and international law. Types of IP include:

- Trademarks;
- Copyright;
- Patents; and
- Industrial designs.

The IIE, its staff and its contractors must at all times adhere to all intellectual property acts, regulations, treaties and license agreements. Respect for the rights of companies and rightful copyright and trademark holders constitutes academic integrity.

Fair Dealing and Exceptions

Section 12 of the Copyright Act allows certain instances of reproduction to be done, without permission. 'Fair Dealing' in Section 12(1) allows reproduction without going through DALRO to obtain permission and can be summarised as being for purposes of:

- Research or private study;
- Personal or private use;
- Criticism or review;
Reporting current events (e.g. in a newspaper or broadcast); and
Judicial proceedings or a report of judicial proceedings.

Common myths, mistakes and misconceptions

- Using copyrighted works and trademarks for educational purposes does not require permission from the rights holder.
- There is no copyright on YouTube videos.
- If a hyperlink is added to a trademark, photo or article it is not infringing on any rights.
- Copying from the same source on different intervals will be seen as fair dealing.
- The DALRO Transactional license will cover all trademark usage.
- Everything on the internet falls in the public domain.

Internet and eLearning Systems

There are no exceptions, educational or otherwise, other than the exceptions noted above in terms of Section 12(1), when using trademarked logos, and written permission must always be obtained. Merely citing or adding a link is not correct or sufficient to prevent possible legal action. Companies fiercely guard and protect their IP (intellectual property) and big companies (like Coca Cola and Warner Bros for example) have dedicated copyright lawyers and IT specialists scanning the internet for infringements by using content identifiers to locate the infringed material as well as the infringer.

The assumption that everything on the internet is in the public domain is incorrect. Not all copyrighted material displays the copyright sign ©, and developers need to be vigilant and use their discretion when choosing material to be used.
How can the internet be used without infringing on rights?

- Use the journals, books, articles and videos found on The IIE library website, the Digital Rights Management (DRM) is already taken care of via license agreements.
- Refer students to the URL link instead of copying the full text into course material.
- Make use of free works and open access material such as DOAJ, Flickr Creative Commons pictures and others.
- Be extra careful when using commercial cartoons without purchasing permission or written permissions such as Dilbert or Glasbergen and others.
  
  See example below:

  “If you infringe on someone’s copyright, you may be liable for legal fees and fines up to $50,000 per violation. Stealing a cartoon off the internet to use in a PowerPoint presentation, website or newsletter without permission is a punishable crime. Subjecting your employer to legal hassles over copyrights may also cost you your job. Frankly, it’s much cheaper to pay a modest permission fee to the person who created the work and owns the copyright.”

  Example found on: http://www.glasbergen.com/copyright-law/

- Choose YouTube videos carefully. It may happen that you aren’t liable for any damages when you have infringed any copyright, but it may happen that your YouTube video could be removed when there are copyright claims registered against it later on.
- Make sure to use company trademarks, names and logos as per the company’s directives, terms and conditions and obtain written permission in advance.
- Once written permission has been obtained, be sure to add a caption “used with permission” to the permitted copyright material. Documents and proof of permission must be filed with the Head Librarian.
USEFUL LINKS FOR MORE INFORMATION

- Copyright Act (Act No. 98 of 1978, as amended)
- WIPO: International intellectual property agreements
- Trade Marks Act (Act No. 194 of 1993, as amended)
- Designs Act (Act No. 195 of 1993)
- Intellectual Property Laws Amendment (Act No. 38 of 1997)

Please contact the Head Librarian for assistance in obtaining copyright and trade mark permissions.

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