

A Survey of Copyright Statements on Electronic Resources of College Libraries: Whether They Can Play a Role in Avoiding Copyright-infringement Behaviours?*

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Abstract:

This paper will examine the copyright statements attached to electronic resources provided by college libraries, to determine how often they are present and analyze the content of those statements for common themes. The data will tell us that how well libraries are meeting their obligations in this realm. And then, it will explore common copyright-related problems that arise when end users use digital library resources. A total of one-hundred and fifteen college libraries' websites of universities sponsored by 211 Project in the People's Republic of China were examined. Particular attention was paid to whether the libraries are meeting their obligation to educate users about their rights by including information about fair use and problematic copyright-infringement behaviours. And then, notices published on libraries' websites about students' copyright-infringement behaviours were documented, and three librarians in charge of the electronic resources were interviewed regarding student-users' problematic copyright-infringement behaviours that they often encountered. Of the one-hundred and fifteen libraries surveyed, seventy-seven libraries (66%) have copyright statements, and most of them relates to licensed electronic resources. There are, indeed, common elements among statements. They can be grouped, roughly, into five common themes: purpose or basis of copyright statement, authorized users, fair use, copyright-infringement behaviours, remedy measures and disclaimer. Only about seventeen percent of the statements explained the two terms "fair use" and "authorized users" in detail. And some of these statements were frequently vague or misleading, about sixty-six percent of the respondents didn't explain what is systematic downloading. Of the seventy-seven libraries which provide statements, thirty-one libraries published notices about users' copyright-infringement behaviours. Combined with the librarian-interview results, we found that end users' problematic behaviours included systematic downloading, distribution to unauthorized users, and going beyond fair use. Librarians and libraries should take some measures to solve these problems. For example, copyright statements on digitalized collections should be

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improved, The content of copyright statements needs to be more clear, precise and avoiding ambiguity, copyright education should be delivered along with or imbedded in the general library-use education or information-literacy programs, and copyright librarians should be established to handle the library copyright issues.

Keywords: copyright statement, copyright law, licensing agreement, electronic resource, college library.

1 INTRODUCTION

The growing prevalence of electronic resources has created new territory for libraries and for copyright law. For example, the ease of copying in the digital environment, however, has made these collections vulnerable to be widespread and systematic copying (Schollosser, 2009). And the proliferation of library copyright disputes under the internet environment has been attracting researchers' sustained attention. The studies on copyright protection and risk prevention are increasingly specified, which covered the specific services in libraries such as electronic resources license (Alford, 2002), copyright issues about interlibrary loan (Lee, A. H. 2006), copyright law related to selecting materials for digitization and creating access policies for the digital objects (Laurie, 2006). Many college libraries realize that an essential part of their mission is to make information and resources available for educational and scholarly purposes consistent with copyright law. While the end-users' main concern may be whether the access is efficient and complete, rather than whether the access and their behaviours are legitimate or authorized (Wu, Chou, Ke & Wang, 2010). So, it is important for libraries to provide end users with the information they need to make legal use of electronic resources. This paper will examine the copyright statements attached to electronic resources provided by college libraries, to determine how often they present and analyze the content of those statements for common themes. The data will tell us that how well libraries are meeting their obligations in this realm. And then, it will explore common copyright-related problems that arise when students use digital library resources, to find out whether these statements play an important role in avoiding copyright-infringement behaviours.

2 METHODOLOGY

2.1 SAMPLES

The samples for this study were the college libraries sponsored by 211 Project. Project 211 is a project of national key universities and colleges initiated in 1995 by the Ministry of Education of the People's Republic of China, with the intent of raising the research standards of high-level universities and cultivating strategies for socio-economic development. During the first phase of the project, from 1996 to 2000, approximately \$2.2 billion was distributed (Li, 2004). China today has more than 1,700 standard institutions of higher education, with about 6 percent of them being 211 Project institutions (having met certain scientific, technical, and human resources standards and offer advanced degree programs). 211 Project schools take on the responsibility of training four-fifths of doctoral students, two-thirds of graduate students, half of students from abroad and one-third of undergraduates. They offer 85% of the

state's key subjects, hold 96 percent of the state's key laboratories, and utilize 70% of scientific research funding (People's Daily Online, 2008). As libraries of 211 Project schools, the investment in the electronic resources is higher than other general institutions. For example, the average cost of electronic resources purchase of 446 college libraries is 1.8 million RMB. However, the top five libraries are Tsinghua University library, approximately 20.7million RMB; Shanghai Jiaotong University library, approximately 17.7 million RMB; Fudan University library, approximately 15.69 million RMB; Zhejiang University library, approximately 15.48 million RMB and Tongji University library, approximately 14.3 million RMB (Wang, Wu, Yao, Guan, Wang & Zhu, 2013). The cost of universities above which sponsored by 211 Project are all above the average.

2.2 ELECTRONIC RESOURCES

For this study, an "electronic resource" is defined as any work encoded and made available for access through the use of a computer networks (AACR2, 2002). It Includes: databases, ebook collections, digitized collections (carefully selected and organized groups of materials to which the library provides persistent intellectual access), statistical sources and more.

2.3 COPYRIGHT STATEMENTS

For the purposes of this study, a "copyright statement" is considered to be a declaration regarding copyright ownership of electronic resources that expressly mentions copyright or provisions of copyright law such as fair use, permitted uses. It is used as a deterrent against infringement, or as a notice that the owner intends on holding their claim to copyright (17 USC §§ 401, 402, 504). On the one hand, the copyright statements provide end users with the information they need to make legal use of the objects. On the other hand, copyright infringement may be caused by users' misuse of electronic resources and libraries will take on the copyright indirect liability. The copyright statements help libraries carry out its statutory duties and avoid copyright indirect liability.

Copyright statements provided by samples were gathered between August 2013 and September 2013; Website survey was used as the survey method. The notices of users' copyright-infringement behaviours were also collected. Six library websites that were not accessible due to 404 errors or other problems when first surveyed were examined again at a later time. If the error persisted, they were not considered in the survey. And then, three librarians in charge of the electronic resources were interviewed regarding student-users' problematic copyright-infringement behaviours that they often encountered.

3 RESULTS

3.1 GENERAL INFORMATION ABOUT COPYRIGHT STATEMENTS

Of the one hundred and fifteen libraries surveyed, seventy-eight had a copyright statement. But the copyright statement of Ningxia university library didn't involve the electronic resources, so seventy-seven (66%) libraries meet the requirements. Sixty-eight libraries' copyright statements only related to licensed electronic resources. Eight libraries' copyright statements involved different types of electronic resources, such as licensed electronic resources, and digitalized collections. Libraries of Tsinghua University, Renmin University of China, Northeast Forestry University and Xi'an Jiaotong University released library

copyright statements which covered all the types of library materials. Among them, only Renmin University of China didn't release the copyright statement specifically focusing on electronic resources at the same time. The situation shows that licensed electronic resources were the critical concern of libraries' copyright statement whereas the digitalized collections were seldom discussed.

In addition, there are various titles of copyright statements. They mainly involve the following categories.

Table 1. Titles of copyright statements on electronic resources of samples.

Titles	Copyright statement/announcement	Use instruction / regulation / rules / notice	Regulation or notice of prohibition of massive downloading and protection of intellectual property	Others
Numbers (%)	45 (58%)	22 (28%)	6(8%)	5(6%)

Using "Copyright statement/announcement" or "Regulation/notice of prohibition of massive downloading and protection of intellectual property" as the title could highlight the restriction and protection of copyright law to the electronic resources, and help to cause the users' attention. However, the titles of "Use instruction / regulation / rules / notice" exert little admonishing effect.

In the web pages, the copyright statements were placed mainly on two different spots: the pages of resources (electronic resources mainly, 74%) and the pages of library rules and regulations (16%). Placing copyright statement on the pages of resources, users will see it frequently when they use electronic resources. About Twenty-nine libraries' copyright statements cannot be found from the home page. Users need to click two or three times to get the copyright information. Some copyright statements take the form as the news releases, which is easy to be constantly updated, which may be noticed only by few users. Warwick and Zie's study of users' perceptions of copyright and electronic forms reveals widespread unfamiliarity with and a lack of concern about copyright restrictions. The users involved had difficulty locating copyright information associated with electronic objects and were willing to devote very little time to finding it (Warwick & Xie, 1999). Therefore, libraries should display copyright statements in a conspicuous place of homepages.

3.2 COMMON THEMES OF COPYRIGHT STATEMENTS

Content analysis of the statements revealed a number of elements that appeared often enough to merit consideration. Their tendency is reappear, often in slightly altered but recognizable forms. Six common themes are identified as: purpose or basis of copyright statement, authorized users, fair use, copyright-infringement behaviours, remedy measures and disclaimer (as shown in the Figure 1). Some example statements have been anonymized, and most are excerpts rather than complete statements.

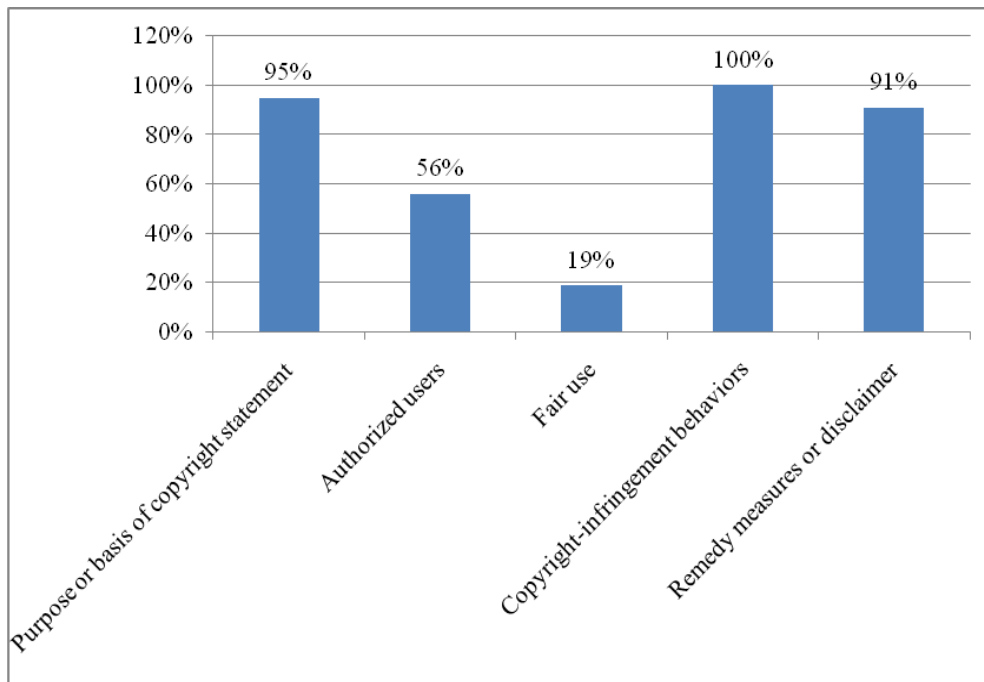


Figure 1. Common themes of copyright statements on electronic resources of samples.

3.2.1 PURPOSE OR BASIS OF COPYRIGHT STATEMENT

There were Seventy-three (95%) libraries' statements beginning with the purpose or basis of the statement. Overall, purpose or basis of libraries publishing copyright statement stayed largely the same and could be mainly divided into the following several aspects: firstly, protect the intellectual property rights of electronic resources. Secondly, maintain the reputation of the school. Legal action will be taken by the copyright owner for any infringement, which will compromise the University's reputation. Meanwhile, the group purchase of database will also be affected. Thirdly, guarantee the rights of end users. If any infringement happens, the database will be immediately withdrawn by the owner, denying all other users access.

Contractual license agreements and copyright law govern the access, use, and reproduction of these resources. Of the seventy-seven college libraries examined, ten libraries illustrated the legal basis of their copyright statements, which included the "Copyright Law of the People's Republic of China", "Regulation on the Protection of the Right to Network Dissemination of Information", the international intellectual property rights laws and treaties, and licensing agreements regarding electronic resources signed between libraries and vendors /publishers.

3.2.2 AUTHORIZED USERS

Copyright statements of thirteen libraries explicitly enumerated the scope of authorized users. For example, Fudan University library stated that authorized users involved the school staffs, full-time students, training teachers and part - time staffs employed by universities or departments (Fudan University Library, 2010). The remaining thirty libraries just briefly described that authorized users mean individuals who are students and teachers of the

university or who are permitted to access the library's information services from campus network.

3.2.3 FAIR USE

Of the Seventy-seven college libraries surveyed, fifteen (19%) libraries' copyright statements mentioned fair use. But the details of the rules varied. Nine libraries expounded the meaning of fair use from two aspects: the purpose and ways of use. As it was pointed out from the statement of Peking University, the fair use of electronic resources from the campus network referred to: the legitimate users retrieve, browse download or print the electronic resources with the normal speed and purpose of personal teaching and research (Peking University Library, 2008). The other six libraries' statements only related to the using purpose but the ways of use were not involved or specified. As the statement of Nanjing University of Science and Technology claimed that the readers of the university can use electronic resources only for private study, scholarship, or research (Nanjing University of Science and Technology, 2013).

3.2.4 COPYRIGHT-INFRINGEMENT BEHAVIORS

Libraries shall make reasonable efforts to provide authorized users with appropriate notice of the terms and conditions under which access to electronic resources is granted under licensing agreements including, in particular, any limitations on access or use of the electronic resources as set forth in agreements (including Creative Commons licenses). Therefore, the limitations on access or use of electronic resources are the core part of the statements and covered by all the respondents. The problematic copyright-infringement behaviours involve the systematic downloading of significant portions of the materials, setting up a proxy server without permission, sharing passwords of authorized access codes, redistributing electronic literatures to non-authorized users and commercial exploitation of electronic resources (most of them mean the licensed information).

Statistics found that the most mentioned infringement behaviour is the Systematic / massive downloading. Downloading entire issues of electronic journals, several sequential chapters in online books, or attempting to create large databases from bibliographic files, are generally prohibited by license agreements. Systematic downloading of content -- manually or with specialized software -- is detectable by information providers and may result in loss of that information service to the relevant computer addresses or the entire university community.

The proxy server on campus is not allowed to set up without the permission of the university library. If it is set up with permission, it should be guaranteed that no users from outside the university are allowed to access the library-subscribed electronic resources.

Any redistributing electronic literatures to non-authorized users and use all or any part of the licensed material for any commercial use or for any purpose other than educational purposes is prohibited.

Sharing an access password with unauthorized users--including family, friends, or co-workers--may result in suspension or revocation of library privileges. If violation cases of electronic resources happen because of stolen accounts or attacked computers, all legal

consequences shall be taken by violators themselves.

The limitations mentioned above are all involved in the 31 (40%) libraries' statements.

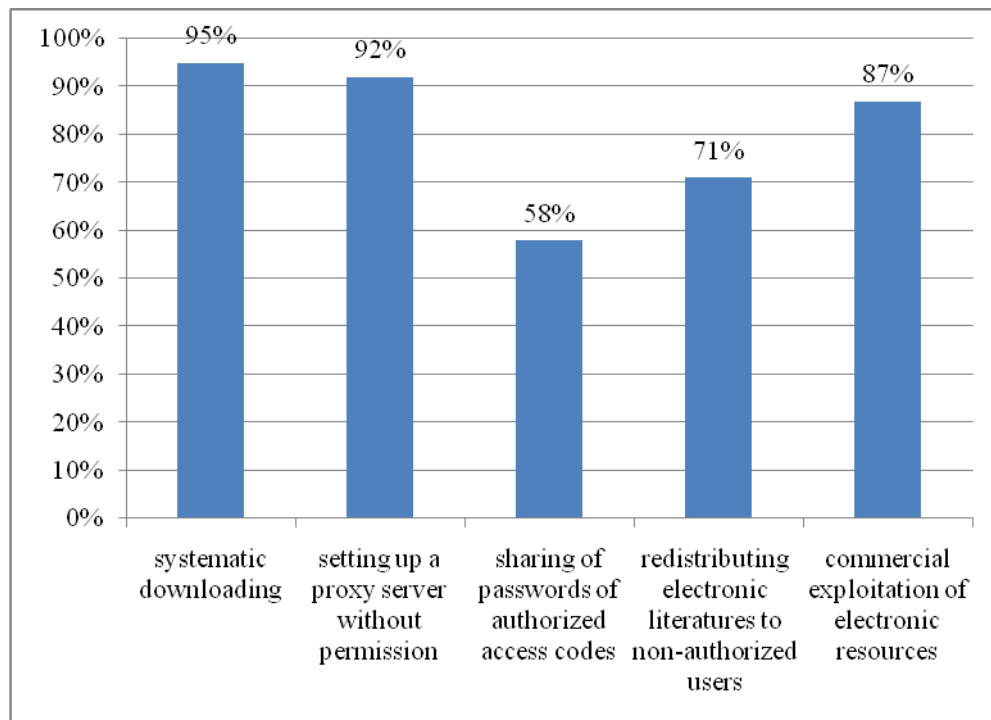


Figure 2. Copyright-infringement behaviours mentioned in copyright statements.

3.2.5 REMEDY MEASURES AND DISCLAIMER

Upon becoming aware of any breach of the terms of copyright statement, libraries are going promptly to fully investigate and initiate disciplinary procedures in accordance with the Licensee's standard practice and use all reasonable effort to ensure that such activity ceases and to prevent any recurrence.

Different libraries varied in treating the copyright-infringement behaviours. As it was claimed by Tsinghua University library, the violator will be punished by the following actions:“(1) Criticize the violator on library website for his wrong behaviour; (2) Suspend the violator's borrowing privilege from the library is suspended for six months; (3) Suspend his network account for two months. If there is any serious violation, the violator will be punished and reported to the university, and all the legal consequences shall be taken by the violator itself.” (Tsinghua University library, 2011)

However, five libraries' statements didn't mention how to treat the infringement behaviours. The statement of Harbin Institute of Technology library claimed that the school library in collaboration with relevant department was formulating strict copyright regulations and penalties (Harbin Institute of Technology library, 2013). But no more detailed regulations punished so far. The statement of Sichuan Agricultural University library pointed out that breach of license would lead to serious consequences to the users due to the severity of behaviours, which is ambiguous too (Sichuan Agricultural University library, 2013). End users are most concerned about whether or not they can obtain resources quickly and

completely, if they have no idea about the consequences of infringement behaviours, it may be difficult to avoid recurrence of unauthorized uses.

3.3 END USERS' PROBLEMATIC COPYRIGHT-INFRINGEMENT BEHAVIORS

When there is an excessive session violation, vendors/publishers would block the school IP addresses, and send a notification to the library usually. When received the publishers' notification, libraries generally identified the users and their specific acts that against the copyright license as soon as possible and took some disciplinary measures to the related principals in accordance with the copyright statement. However, from the reports on libraries website, it was shown that the violations especially the systematic downloading were difficult to prohibit. Statistics found that thirty-one libraries reported the users' infringement behaviours on their Web site. Take Sun Yat - Sen University library as an example, it has reported six students' violations of systematic downloading since September, 2013.

To gain some insights of the users violations, we interviewed three librarians responsible for the construction of digital resources. They are from Sun Yat-sen University, Jinan University, and Wuhan University. The results of our interviews indicate that, as far as end users' violations of copyright laws and licensing agreements are concerned, there are three major problems or cases that those librarians often encountered during their promotion of electronic resources: (1) systematic downloading (manually or by software). A small amount of end users packed the downloaded resources up and sold them for commercial purpose (use all or any part of electronic resources for Commercial Use), which was just totally deviated from fair use. (2) Distribution or share an access password to unauthorized users. In this case, the end users hold the view that it is legal to share electronic resources for the educational or personal research purposes. (3) And going beyond the purpose and character of academic use. A small amount of end users packed the downloaded resources up and sold them for commercial purpose (use all or any part of electronic resources for Commercial Use), which was just totally deviated from fair use(Wu, Chou, Ke & Wang, 2010).

4 CONCLUSIONS AND DISCUSSIONS

Besides the desire to mitigate liability for end-user infringement, there are compelling reasons for libraries to provide information about the copyright status of their electronic resources (Melanie, 2009). Libraries should be responsible for establishing policies that create an environment in which authorized users make appropriate use of electronic resources and for carrying out due process when it appears that a use may violate the agreement. But our survey focused on college libraries of 211 Project found that only 66 percentage of the samples published copyright statements on their website. And the notification of users' infringement behaviours posted on the websites and the results of librarians' interviews showed that the users' violations still existed and the copyright statements on electronic resources played a limited role on governing the use of resources. Librarians and libraries should take some measures to solve these problems.

4.1 COPYRIGHT STATEMENTS ON DIGITALIZED COLLECTIONS SHOULD BE IMPROVED

The copyright statements on electronic resources of college libraries we surveyed mainly involved the licensed materials but digitalized collections seldom mentioned. The main reason may be that in the purchase of all types of electronic resources, libraries sign a license agreement with vendors/publishers, which, in general, will stipulate the libraries' responsibilities as licensees. One of the rules includes that libraries provide notice of license terms to authorized users. As the Licensee, library shall use reasonable efforts to inform authorized users of the restrictions on use of the licensed materials. However, the responsibility for libraries to convey copyright information about digitalized collections has been ignored. Actually, the need to comply with copyright law while selecting materials for digitization and creating access policies for the digital objects is widely acknowledged (Laurie, 2006). Anecdotally, if libraries are sometimes reluctant to share anything but the most basic copyright information, such as public domain, fair use, the copyright status or owner of an item of the digitalized collections, out of fear that users will take it as legal advice, opening the library up to an unacceptable level of risk (Schollosser, 2009).

4.2 THE CONTENT OF COPYRIGHT STATEMENTS NEEDS TO BE MORE CLEAR, PRECISE AND AVOIDING AMBIGUITY

The content of a copyright statement usually includes the general concepts of copyright law and licensing agreements, the applications of fair use, library users' rights, and appropriate-use behaviours. Nevertheless, the results of this study suggest some specific topics to be included in the instructions, and be stated clearer, more precise, especially topics concerning those concepts and rules that end users misunderstood. For example, the correct comprehensions of "authorized users" and "fair use" are an important prerequisite for the users to use electronic resources legally. If end users can't realize the concept of "authorized users" correctly, they may transmit downloaded digital library resources to friends in the same school or in other schools, without noticing whether these friends were authorized users or not. Or sharing an access password with unauthorized users, including family, friends, or co-workers. According to our survey, only about 17% copyright statements explained the two terms in detail.

In addition, the results from the survey show that the most prominent problem is systematic downloading. All the copyright statements prohibit systematic downloading. However, the definition of this term is not well stated. About 66% of the respondents didn't explain what is systematic downloading, how much of a digital library resource can be downloaded at once. Is there an approximate number for reference so that users can follow stated rules with a clear conscience? There are two ways to explain the systematic downloading: (1) Provides general authorization policy of database vendors. Like Tsinghua University, Beijing University and Sun Yat - Sen University pointed out that in database vendors' opinion, downloading material beyond the normal speed will be regarded as abuse and the normal speed of reading an article is several minutes at least. The majority of libraries adopted this kind of interpretation. (2) Set up strict criteria for the number of downloading articles, like Zhejiang University and Shanghai Jiaotong University require that the amount of articles one person downloading at the specific database one time is no more than thirty.

Furthermore, each licensed product may have more specific or additional permissions or prohibitions. Any digital library users should observe these laws and regulations. Besides the publication of electronic resources copyright statement, many foreign and Hong Kong college libraries, such as University of California Berkeley Library (University of California Berkeley Library, 2011), University Library System of the Chinese University of Hong

Kong(University Library System of the Chinese University of Hong Kong, 2013), also provide redacted license agreements of electronic resources (in many cases, portions of the original license deemed inappropriate for public release have been redacted), reminding users to observe terms and conditions of the license agreements.

4.3 COPYRIGHT EDUCATION SHOULD BE DELIVERED ALONG WITH OR IMBEDDED IN THE GENERAL LIBRARY-USE EDUCATION OR INFORMATION-LITERACY PROGRAMS

Educating users about copyright is often considered a responsibility of libraries. Although some libraries – on their portal web pages – had kept reminding users to cautiously follow e-resource downloading guidelines, few of the libraries had developed any instructions to promote users’ better understanding of copyright laws and of related issues in reference to electronic resources. Libraries need to develop related learning materials and courses concerning both copyright laws and fair use of electronic resources (Wu, Chou, Ke & Wang, 2010).

Fu found that Shanghai Library, Hunan Library, Shanghai University Library, Southwest University Library, Zhengzhou University Library, Nantong University Library, Anhui Agricultural University Library, Zhongyuan University of Technology Library, China Geological Library and the People’s Liberation Army Medical Library held copyright seminars or trainings in the past years, which just account for 21% of total 48 libraries investigated. And the National Science Library’s website provides instructions about Resources and Service Guide mentioned Intellectual Property and fair use of Database (Fu, Y. S., 2009). But there is no college library of 211 Project provides a webpage specifically on copyright education, whereas many foreign college libraries do better. Take American libraries as examples, a number of academic libraries; including those at North Carolina State University (North Carolina State University Libraries, 2013), University of Texas (University of Texas Libraries, 2013), University of California, Los Angeles (University of California, Los Angeles Library, 2013), Stanford University (Stanford University Libraries, 2013) and Columbia University (Copyright Advisory Office, 2013) have established copyright education Web sites that touch on issues pertinent to higher education.

4.4 COPYRIGHT LIBRARIANS SHOULD BE ESTABLISHED TO HANDLE THE LIBRARY COPYRIGHT ISSUES

The survey found that only Twenty-three (30%) libraries provided with contact information of librarians who handle the library copyright issues. To solve the complicated and potential copyright issues brought about by the ever-changing digital environment, college libraries need to provide the position for copyright librarian to perfect and improve the content of electronic resources copyright statement; provide end users with advice on fair use; establish a copyright education program in a university setting, with an emphasis on complying with the law; deal with the users’ violations and help users to get the Copyright Permission, and so on so forth.

Copyright librarians should qualify some requirements. These requirements may involve: (1) Demonstrated knowledge of library science and contract law, with a specialization in intellectual property policies, especially the copyright policies. (2) Knowledge of publisher’s licensing and business models. (3) Demonstrated ability to evaluate, negotiate, analyze or

draft the electronic resources licensing agreement. (4) Demonstrated ability to effectively articulate and communicate complex legal and policy concepts to non-specialist faculty, librarians, staff, and student audiences. (5) Knowledge and understanding of research needs and the organization of scholarly materials in various disciplines. (6) Excellent oral and written communication skills and interpersonal skills. (7) Demonstrated ability to effectively coordinate between departments and constituents (UCLA Library, 2008).

Future research will focus on students' copyright knowledge, attitudes, and behaviours relative to the use of electronic resources. Understanding what student users have (mis)understood regarding the appropriate use of electronic resources, and thus providing these student users with solid instruction that promotes correct concepts and legitimate behaviours.

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