

FINAL REPORT

CONFERENCE ON COLLECTIVE STRATEGIES IN APPROACHING COPYRIGHT ISSUES AFFECTING CIC AND REGENT INSTITUTIONS

AUGUST 26, 1996

CONTENTS

Final Report

- I. Acknowledgments
 - II. Introduction
 - III. Action Items
 - IV. Efforts to Date
 - V. Conclusion
- Conference Attendees

Supplementary Reports

CIC Survey

Report of the Working Group on Cyberspace and Digital Technologies

Report of the Working Group in Proposed Legislation in Congress

Report of the Working Group on Copyright Ownership of New Works and the University Interest

I. Acknowledgments

The key to the success of the *Conference on Collective Strategies in Approaching Copyright Issues Affecting CIC and Regent Institutions* was the effort and participation of everyone -- speakers, CIC and Iowa Regent Institution administration, Working Group facilitators and attendees.

We offer a special thank you to our speakers -- Kenneth Crews and Peter Jaszi -- whose presentations focused conference attendees on the issues: immediate, short and long term. They served as excellent motivation for what was ultimately a very productive two days.

We also extend our thanks to all of the Working Group facilitators: Wayne Rawley, Sanford G. Thatcher, Kenneth Crews, Peter Jaszi, Mark Janis, Anita Lowry and Ed Shreeves. Each did an excellent job of developing issues for discussion within the Working Groups, facilitating the Working Group discussions and developing group reports which identified issues and action

items to carry the Working Group and the conference forward (See Attachments A-D, Working Group Reports).

We take this opportunity to specially acknowledge the contributions of Anita Lowry, who passed away on July 20, 1996. Despite the myriad of other responsibilities as head of the University of Iowa Libraries Information, Research and Instructional Services Department, Anita graciously agreed just a few days before our conference to facilitate the Cyberspace and Digital Technologies Working Group. As with her work for the University of Iowa and in her profession as a Librarian, her contribution to the work of the Cyberspace Working Group was invaluable. She will be greatly missed.

We would also like to gratefully acknowledge the funding and other support provided to the conference by Roger Clark, Director of the Committee on Institutional Cooperation (CIC) and his colleagues, Brett Sutton and Barbara Allen. As noted later in this Report, the CIC has already taken affirmative steps to address many of the action items emanating from the Conference. We thus appreciate the support prior to and during the conference, as well as the wonderful work currently being facilitated by Roger and the CIC staff.

Finally, a special thank you to Kenneth Crews, the true catalyst behind the success of this Conference. His tireless efforts, from initial conference concept discussions, through agenda development and his own keynote presentation, were responsible for the productive energy generated among conference attendees which ultimately led to an enthusiastic progression of ideas and implementation strategies during the conference and in its aftermath.

II. Introduction

The University of Iowa hosted a copyright conference from May 6-7, 1996, "Collective Strategies in Approaching Copyright Issues Affecting CIC and Regent Institutions". Conference attendees were able to share thoughts and ideas and discuss strategies of significance to each institution and our consortium. This report is designed to provide conference attendees and all who may read it with a summary of the discussion, issues and action items emanating from our two day discourse. It is intended to serve both as a reminder and a gentle nudge toward the need for constant vigilance in identifying our institutional and personal rights and responsibilities in the ever-changing area of copyright; and in implementing strategies to appropriately respond to those rights and responsibilities -- institutionally and as a consortium.

The report's initial focus is upon the immediate action item which generated universal support from the conference attendees -- the Position Statement prepared by the Working Group on Proposed Legislation regarding copyright legislation currently under consideration by Congress. The report then summarizes the other important long and short term action items and suggested implementation strategies identified by conference attendees. Attached as addenda to this report are the reports of each of the Working Groups, which chronicle and identify the issues, discussion, action items and recommendations of each group relative to its specific topical concern.

This conference was conceived as a starting point for discussion and action on the various copyright issues which face our institutions and the individual administrators, faculty, staff and students comprising their essential core. Since our conference, the Provosts of the CIC institutions have already taken steps to keep this discussion moving in a direction of greatest collective benefit. The Provosts have asked Kenneth Crews and Barbara Allen to suggest individuals for a CIC standing committee -- a major recommendation of all of the Working Groups. We hope the Provosts of the Regents institutions will also address this issue.

We want to emphasize the role that individuals and individual institutions can play in more fully exploring and responding to these issues, e.g. via education of their faculty, staff and students about these issues, and implementing mechanisms by which to address the issues most singularly faced by individual institutions and their inhabitants. Thus the effort of identifying, developing and implementing collective strategies to approach copyright issues affecting our institutions is a joint endeavor among institutions, institutional organizations such as the CIC and Iowa Regent groups and all of the individuals so integrally affected by such issues.

III. Action Items: Immediate/Short Term/Long Term

A. NII Legislation: The United States Congress is currently considering pivotal legislation (S. 1284 and H.R. 2441) which will have a substantive impact on the way in which academic institutions approach and respond to copyright issues. Of primary concern is the possibility of the legislation's expedited passage without the benefit of a more substantial representation of the opinions of academic institutions in this dialogue.

In response to these concerns and in an effort to encourage greater institutional and collective involvement in the debate over the proposed legislation -- particularly with an eye towards the preservation of fair use rights already in place -- the conference attendees endorsed a Statement prepared by the Working Group on Proposed Legislation (See attachment A) which essentially asks Congress to take a more circumspect approach to the proposed copyright revision legislation, allowing all parties, particularly the academic community, to be heard on these issues.

The Statement was disseminated to all conference attendees and federal relations officials at all CIC and Regent institutions for use in discussing the matter with legislative representatives and relevant others. In light of the speed with which the proposed legislation is advancing, the conference attendees posited that the federal relations official on each campus might most appropriately coordinate on-campus efforts and move things along.

B. Standing Committee: Appoint a small committee to provide leadership and coordination for CIC action in all areas associated with copyright and intellectual property. This committee would have a diversity of membership based on institution as well as areas of responsibility. The committee should also include experts in non- copyright areas of intellectual property (e.g., patents, trademarks).

Once appointed, the committee should move quickly to adopt both short term and long term strategies:

1. Short term: Establish guidelines for "fair use" of digital resources -- drawing as needed on existing guidelines developed by other groups -- for purposes of developing distance learning programs, electronic course reserves, and other projects that rely on a widespread understanding of fair use in this environment.

These guidelines should then form the basis of a CIC/Regent-wide education and information campaign about copyright and fair use in this environment.

2. Long term: With the understanding that attempting to draft a single policy to suit the needs of all CIC and Regent institutions is not viable, identifying guiding principles and recommend CIC/Regent-wide policies in the area of intellectual property rights, including shared production and distribution of digital resources, the importance of universities' assertion of copyright, recognition of differences among academic subcultures regarding intellectual property, the meaning of "work for hire", and identifying resources for effectively managing these policies.

Such principles should support the notion of broad, unrestricted consortium-wide access to information developed and published on any individual campus. The principles should address the fair allocation of the "bundle of rights" associated with the production and licensing of information systems on our campuses. One approach is to manage these rights as a consortium, thereby enabling the group to trade these efforts with other producers of information, e.g., entering into an agreement with non-CIC/non-Regent universities to share certain digital information resources in exchange for access to information they produce.

3. Other issues: Investigating ways to promote fair use and first sale principles in the digital environment; incorporating an awareness of intellectual property issues in future Learning Technology Initiatives (LTI) programs; defining the electronic equivalent of the "photocopier" exception for libraries; future monitoring of relevant copyright and other intellectual property laws and legislation; and understanding the liabilities of institutions as service providers.

C. Implementation Strategies: In addition to promoting the Statement endorsed by the conference attendees and the appointment of a standing committee to address the issues outlined in the previous section, additional suggestions for CIC-led and/or institution-level initiatives included the following:

1. The CIC should support and inform these efforts by establishing a clearinghouse of information on current policy and practice regarding these issues at each CIC/Regent university. This clearinghouse could be made available through a homepage --either by providing a list of items available, then sending them on demand, or by putting the full text of the relevant policies on the clearinghouse homepage.

2. Encourage campus-level discussions of these issues, eliciting local positions and policies on intellectual property issues.

3. Develop campus-level educational efforts to increase awareness of these issues among faculty, staff, students and administrators.

IV. Efforts to Date

In addition to the development of a standing committee, Brett Sutton, Coordinator of the CIC Learning Technology Initiative, successfully established a mail reflector for the purpose of "maintaining the lines of communication opened up at the conference, for distributing relevant documents and news items and for discussing copyright and intellectual property issues relevant to our consortial institutions." In addition, the CIC website (URL:<http://www.cic.net/cic/ip/iowastate.html>) carried the Position Statement endorsed by the conference attendees on Proposed Legislation.

V. Conclusion

Our institutions continue to face difficult and changing issues related to copyright: the rising costs of publications, the parameters of sharing and dissemination of copyrighted information, how best to educate our constituencies, and ownership and fair use issues in Cyberspace. As we witness the various interest groups vying for a voice in the final decision, it is readily apparent that constant vigilance is essential on this and all issues of potential impact on the academic, research and educational missions of our institutions. We hope this conference serves as a catalyst, in even a small way, in facilitating that reality.