

GUIDELINES- TO MANAGE THE INTELLECTUAL PROPERTY RIGHTS IN AN ACADEMIC LIBRARY

Mr. Dipankar Debnath

E mail: dipankar.debnath.49@gmail.com

Abstract

The development of Academic Libraries, and also the huge involvement of digital information and technologies, a worldwide vision with enormous political and ideological importance for humanity, in an effort to approach cultures and preserve plurality and diversity, is directly affected by the provisions of Intellectual Property Law and it's subject to the consideration of innovation through legislation. Legal issues in Academic Libraries such as these related to software use, database protection, the collection, digitization, archiving, and distribution of protected works are of outmost importance for the operation and viability of Academic Libraries and repositories.

Key Words: Academic Libraries, Intellectual Property, Legal issues, Legislation.

1. Introduction

Intellectual Property Rights play an important part in many aspects of the Academic Libraries. The Library owns, generates and manages Intellectual Property Rights, and diligent conduct when managing those rights is essential to the Library's functioning, good reputation, sustainability and the achievement of its core objects, which are 'to collect, preserve and give access to all kinds and forms of recorded knowledge for the benefit of the user or public including those engaged in research and learning.'

Basically, the Library has an obligation to both rights holders and users to respect the Intellectual Property Rights that subsist in the collections in its care and it also has a duty to preserve, give access and facilitate the use of those collections. In addition to this, the Library has a responsibility to pursue its own interests in securing the long-term sustainability of activities that enable access and use of collections both physically and digitally. All of these factors influence the Library's approach to the management of Intellectual Property Rights.

2. Scope and definitions

Intellectual property (IP) is a term that describes the application of the mind to develop something new or original. IP can exist in various forms; a new invention, brand, design or artistic creation. It can be owned, bought and sold. It also an important asset in today's knowledge economy and should be strategically managed. Protecting and managing your IP assets is critical when establishing your presence in the market. It is often the difference between success and failure.

The law provides a framework that grants the owners of Intellectual Property the right to make decisions about the way in which their property is used ('Intellectual Property Rights'), but it also states the ways in which the property may be used without the owner's permission (these are called 'exceptions').

Some forms of Intellectual Property Rights are more relevant than others to the Library's work, in particular copyright and database rights. The following is intended as a general introduction to those rights rather than detailed definitions.

'Copyright' is the exclusive legal right to control ways in which a work can be used for a given period of time. These rights cover: copying; adaptation; distribution; communication to the public by electronic transmission; the

rental or lending of copies to the public; and performance in public. Authors of literary, dramatic, musical, artistic works and film directors also have 'moral rights' in relation to their work. The ownership and duration of copyright (and the subsistence and duration of moral rights) depend on a number of factors which need to be considered carefully.

'Database Rights' arise from substantial investment in obtaining, verifying and presenting the contents of a database. They last 15 years from the end of the calendar year in which the making of the database was completed.

3. Roles and responsibilities

All members of staff have a responsibility to adhere to the Intellectual Property Rights Policy and seek further advice from the Rights and Information Manager as required.

All Heads of Section have a responsibility for ensuring compliance with the Policy within their respective sections.

Line Managers are responsible for ensuring that members of staff under their management have received adequate training in relation to Intellectual Property Rights.

The Rights and Information Manager is responsible for formulating and updating the policy, its implementation, and the creation and monitoring of supporting procedures.

The Policy is monitored and reviewed by the Rights and Information Manager on behalf of the Information Compliance Committee and it is approved by the Senior Management Team.

4. Policy

4.1 General

- The Library makes its best efforts to comply with legislation that is relevant to its activities.
- The Library exceeds its duties in the interest of good relationships with rights holders and users.
- The Library is committed to promoting good practice in Intellectual Property Rights administration within and beyond the organisation.
- The Library aims to facilitate the use of the information that it generates and the collections in its care by displaying clear and accurate rights information and through the use of open licences.
- The Library observes diligent conduct at all times and aims to acquire Intellectual Property Rights and appropriate licences in respect of the collections in its care and its activities in general.

4.2 Developing the Library's collections

- The Library shall give due consideration to Intellectual Property Rights in its Collection Development Policy.
- Intellectual Property Rights provisions shall be included in the Library's documentation for the acquisition of materials for the collections.

4.3 Reader services

- Copies of items from the collections shall be supplied to members of the public in accordance with the relevant exceptions in copyright law.
- Where the consent of rights holder is required in order to supply copies to the public, staff will observe due diligence at all times.
- The Library's practice in commercial and educational image licensing is regularly reviewed and kept in line with best practice within the cultural and heritage sector.

4.4 Third party licences

- Where services or activities of the Library are subject to licence or contract, the Library shall ensure that the terms and conditions of the licence or contract are honoured at all times.

4.5 Digital collections

- The Library does not claim ownership of copyright in digital reproductions. Access to reproductions shall be subject to the same rights as would apply to the work in its original format.
- The Library will seek opportunities and support efforts to use and develop its digital collections and the related metadata as a source of information and an educational resource. It will encourage and support others, both through collaboration with individuals and organisations (eg the academic community) and through wider interaction with users (eg crowd sourcing), to use and enrich its digital collections.

4.6 Income generation

- The Library will seek to develop revenue models that align with, rather than inhibit, free online access to its digital collections and other resources.

4.7 The Library's Intellectual Property Rights

- Where Intellectual Property Rights are owned by the Library, the Library may, at its own discretion, share those works under a licence that will enable open access and reuse. Any decision not to publish such works under an open content licence shall be supported by a legitimate business reason or legal restriction.

4.8 Unknown copyright ('orphan works')

- In some instances, the current rights holder will be unidentifiable or untraceable after a reasonable search. The Library's management of such works will be described in more detail in the Guidelines for Rights Searches and Assessments.
- Searches for rights holders shall be duly diligent and conducted in good faith at all times.
- The Library will provide means by which members of the public can submit further information regarding an item's copyright status or issue a request for an item to be removed from the Web.

4.9 Third party websites and applications

- The Library will seek and explore opportunities to display digital collections and other content on third party websites and applications.
- The Library may also explore opportunities to display its collections and its own Intellectual Property Rights on third party commercial websites with a view to increasing their exposure and generate income. Such opportunities should not undermine the Library's interests and in particular the achievement of its core objects.

4.10 Projects

- Projects shall give due consideration to Intellectual Property Rights during their preliminary (e.g. preparation of funding application) and planning stages.

4.11 Metadata

- The Library shall aim to make the metadata that it generates as widely available as possible for re-use. A decision not to publish metadata under an open licence should be supported by a legitimate business reason or legal restriction.

4.12 Databases

- The Library may, at its own discretion, assert ownership of Database Rights where there has been a substantial investment in obtaining, verifying or presenting the contents of a database. The Library will aim to provide clear guidance regarding Database Rights on its website, but those wishing to use collections of

data (including images), especially for commercial purposes, are advised to contact the Library for clarification beforehand.

4.13 Intellectual Property Rights generated by Library staff

- All Intellectual Property created by members of staff in the course of their employment by the Library, including but not limited to writing, photographs, videos, slides, software, code and electronic data, shall be the property of the Library. In instances where the definition of 'in the course of employment' is unclear, the onus is upon employees to contact the Rights and Information Manager or the Human Resources Unit to discuss any rights that they wish to reserve.

4.14 Intellectual Property processed by Library staff

- All staff members are prohibited from creating or distributing, in physical or digital form, any unauthorised copies of Intellectual Property that is generated, collected, stored or managed by the Library.

4.15 Intellectual Property Rights generated by volunteers

- Where appropriate, the Library shall seek to ensure that any Intellectual Property generated by volunteers shall be made available under an open licence to enable access and re-use.

4.16 Contracts with external suppliers of works, products or services

- When negotiating contracts with suppliers of works, products or services, the Library shall seek to ensure that ownership of Intellectual Property Rights is assigned to the Library or made available under an open licence. Any decision not to include a provision to this effect should be supported by a legitimate business reason or legal restriction.

4.17 Staff awareness and training

- This Policy is available to all members of staff on the Library's internal network and to the general public via the Library's website.
- The Library shall, through the provision of training, resources, consultancy and supervision, aim to ensure that staff members that manage Intellectual Property Rights possess the skills and knowledge that are necessary to fulfil their duties and responsibilities effectively.

4.18 Breach of Policy

- Breach of copyright and other Intellectual Property Rights laws may render both the Board of Trustees and individuals liable to civil or criminal proceedings. The Library will regard willful or reckless breach of this Policy as a disciplinary offence and such breaches will be subject to the Library's disciplinary procedures.

4.19 Monitoring and review

- The Policy shall be monitored on a regular basis and reviewed on an annual basis.

5.0 Conclusion

Libraries acquire, organize and secure life-long access to creative works which are the building blocks of our civilization and education. Libraries are the repositories of human knowledge; they are our past, our present and our future. Libraries have adopted internal regulations, abide by national laws and international practices with the aim to achieve their goals, i.e. satisfy people's quest for knowledge and creative works. While almost all libraries and librarians acknowledge the need to abide by Intellectual Property law that protects the interests of authors and creators, initial and subsequent right-holders, they do also show unwillingness to transform from organizations that enable access to knowledge into gatekeepers of locked-in, inaccessible knowledge.

Libraries especially academic libraries in the developing world are on cross roads. They are confused on whether to support the IP protection so as to generate the income of the authors or support the open access drive where the knowledge is made available to everyone without any commercial implications. In the changed scenario of digital and online environment the librarian has to play mediator role. The librarian job transferred from custodian of knowledge to facilitator of knowledge. Librarians are in the cross roads whether chose to take the user side or the

author side. They are now put under pressure and compulsion to work with the limitation of technology, IP laws and high expectation of users. The open access movements are bringing new hope and relief to the librarians to return back to the service motto rather than the middle man of commercial knowledge brokers. In these crucial hours librarians has to take control of the situation by educating and equipping themselves to handle the IP and technological crisis.

6.0 References

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