

Complying with Copyright When Using Social Media

Your social media guidelines or policy should address copyright and be revised regularly to stay up to date.

BY LESLEY ELLEN HARRIS

Social media is new and uncertain territory for many of us, but one thing that is certain is that social media involves communicating and/or sharing a variety of content in a variety of formats and forums. With the rapid growth of social media, more and more libraries and organizations are developing guidelines and policies that tell employees how to conduct themselves when using Facebook, YouTube, Twitter, blogs, wikis, virtual worlds, and other channels.

This column focuses on one particular aspect of social media guidelines: respecting copyright. IBM's Social Computing Guidelines address copyright in a provision that states, in part, the following:

“Respect copyright and fair use laws.

For IBM's protection as well as your own, it is critical that you show proper respect for the laws governing copyright and fair use of copyrighted material owned by others, including IBM's own copyrights and brands. You should never quote more than short excerpts of someone else's copyrighted work. And it is good general blogging practice to link to others' work. Keep in mind

that laws will be different depending on where you live and work.”

As you can see, the preceding paragraph incorporates many copyright-related issues that you may want to consider for your own policy. The issues are as follows:

- Determining ownership of content;
- Understanding fair use and its application;
- Obtaining permission to use copyright-protected content;
- Linking to content;
- International copyright law; and
- Record keeping.

Let's look at each of these issues individually.

Determining ownership of content.

Determining ownership of content may take some investigation, time and creativity. If you are lucky, the copyright owner's name will be clearly marked on the content. In many cases, however, you will need to contact a publisher or Website owner or initiate some online searches to determine who owns the content. Websites often post content

owned by others and may not be able to provide you with permission, but they can sometimes guide you to the correct copyright owner.

Obtaining permission to use copyright-protected content. Always assume that the content you wish to use is protected by copyright, even if that content is found through a search engine or does not contain the copyright symbol (©). Unless you have reason to believe otherwise, you should obtain permission before you use the content. Doing your best to obtain permission without successfully obtaining it does not permit you to use the content—you will need to use alternative content or, if the content is text, summarize the text in your own words.

Similar to using copyright-protected content in any other manner, using content in social media requires asking and answering a series of questions. Questions to ask include the following:

- Is the content protected by copyright?
- Are you using the content in a copyright-compliant manner?
- Is there an exception to the use?
- Does fair use apply, or is there implied consent?
- Do you already have permission to use the content through a previous permission or license agreement?

These questions are pertinent regardless of whether the content you are using consists of text, music or images. Images from stock agencies can be a wonderful way to enhance a blog or other social media, and stock agencies generally have plain-language licenses stipulating how licensed images may be used. The use of images in social media is generally allowed, but always check the specific license terms of the stock agency with which you are working. This same approach applies to the use

LESLEY ELLEN HARRIS is a copyright lawyer who consults on legal, business and strategic issues. She is editor of a newsletter, *The Copyright & New Media Law Newsletter*, which is available at www.copyrightlaws.com. She also teaches SLA's Certificate in Copyright Management program and maintains a blog on copyright questions and answers.



Once you have put your social media policy or guidelines in writing, your job has only just begun.

of music in social media.

Understanding fair use. Fair use is an often-misunderstood concept in the U.S. Copyright Act. It is intentionally ambiguous and is always based on the particular facts of a given circumstance. Fair use applies to social media, so you need to consider the four fair use factors set out in the Copyright Act.

Linking to content. The legality of linking to internal pages of Websites varies from country to country. Although linking is generally permissible in the United States, the use of “deep (direct) links” is sometimes prohibited, though for non-copyright reasons. For example, a Website may bar the use of a deep link in its terms of use or in a “Legal Notices” or similar section.

The “framing” of copyright-protected content on your Website or on a social media site is not the same thing as linking to content. Framing can be viewed as a violation of copyright; in fact, most Websites specifically state that framing their content on another Website is strictly prohibited.

International copyright law. Copyright laws vary from country to country. As a best practice, follow the copyright laws in your own country. U.S. organizations may want to go a step further and protect moral rights (rights of attribution and integrity belonging to authors) in their social media guidelines and policies, since most countries protect moral rights to a greater degree than the United States.

Keeping a record of permissions. You should keep a record of all of your communications with a copyright holder. These records are important elements of the copyright process and also provide evidence of the permission and the terms of use for that permis-

sion. Records include e-mail messages, phone calls, letters, and any communication relating to obtaining permission to use content in social media.

Unfinished Business

Your organization’s treatment of copyright in its social media policy or guidelines may take no more than a sentence or paragraph or run several pages. Know your audience and the level of information they can absorb and the guidelines they can and will follow.

Once you have put your social media policy or guidelines in writing, your job has only just begun. Next, you need to educate your organization about copyright and make sure everyone is aware of, and familiar with, the guidelines or policy. You may also need to amend them every year or two, as both the law and social media can change rapidly. **SLA**

Assisting *Pro Se* Patrons

Continued from page 24

bound to know a library or librarian who has or someone who has sought legal research assistance.

To provide effective legal reference assistance, you must first take an interest in the subject and make a commitment to study the craft. While a thorough knowledge of the subject takes time, librarians can provide valuable assistance with just a basic knowledge of legal research. Fortunately, there are several print and electronic resources that librarians can use to gain a solid foundation in legal research. With the right mix of a knowledgeable staff and basic legal materials, even a small library can provide users with adequate research assistance. **SLA**

RESOURCES

- American Bar Association. 2008. *Complete Personal Legal Guide: the Essential Reference for Every Household*. 4th ed. New York: Random House Reference.
- Bergman, Paul, and Sara Berman-Barrett. 2010. *Represent Yourself in Court: How to Prepare and Try a Winning Case*. Berkeley, Calif.: Nolo.
- Bonfield, Lloyd. 2006. *American Law and the American Legal System in a Nutshell*. St. Paul, Minn.: Thomson/West.
- Carson, Bryan M. 2011. *Finding the Law: Legal Research for Librarians and Paralegals*. Lanham, Md.: Scarecrow Press.
- Elias, Stephen. 2012. *Legal Research: How to Find & Understand the Law*. Berkeley, Calif.: Nolo.
- Irving, Shae. 2011. *Nolo’s Encyclopedia of Everyday Law: Answers to Your Most Frequently Asked Legal Questions*. Berkeley, Calif.: Nolo.
- Warner, Ralph, and Robin Leonard. 2011. *101 Law Forms for Personal Use*. Berkeley, Calif.: Nolo.