WCET Webcast
wcet.wiche.edu
Welcome to today’s WCET Webcast

*July 23*

The webcast will begin shortly.

There is no audio being broadcast at this time.

An archive of this webcast will be available on the WCET website and YouTube channel by next week.
What Campus Leaders Need to Know about Copyright and Intellectual Property

July 23
Welcome!

Use the question box for questions and information exchange.

Archive, PowerPoint, and Resources will be sent.

PowerPoint can be downloaded via the link in chat.

Follow the Twitter feed: #WCETWebcast.

Megan Raymond
Senior Director, Programs & Sponsorship
WCET
mraymond@wiche.edu
@meraymond
If you have a question during the presentation, please add your questions to the question box.

We will monitor the question box and have time for Q&A at the end of the webcast.
Live Captioning Provided by Our Sponsor
Moderator

Rob Coyle
Assistant Vice President, Course Development
University of Maryland Global Campus
Speakers

Jim Burger
Partner
Thompson Coburn LLP

Jonathan Poritz
Associate Professor and Director,
Center for Teaching and Learning
Colorado State University Pueblo

Rebecca Van de Vord
Assistant Vice President of AOI and
Director of Learning Innovations
Washington State University
Copyright Law

Jim Burger
Partner
Thompson Coburn LLP
Copyright Basics

• U.S. Constitution, Article I, Section 8, Clause 8
  • "[the United States Congress shall have power] To promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries."

• Think of copyright as a balance between the rights of the users and the rights of the creators.

• Advance learning and incentivize creation.

• Creators receive bundle of “exclusive rights” for “original” creations.

• In addition to limits on rights (facts, ideas, limited ways to express), a cornerstone of that balance is the exceptions to those rights, particularly fair use.
Copyright 101

• Any original (not copied) creation gets a copyright once “fixed in a tangible medium,” only need registration to sue.

• No protection for ideas, procedures, processes, system, concept, principle or discovery (e.g., heroic circle, star-crossed lovers).

• §106 gives authors five rights for “limited times” (life + 70 years)
  • Reproduction
  • Prepare derivative works
  • Distribute copies
  • Publicly perform the work
  • Display the works public

• Number of exceptions (e.g., first sale) – focus today on Fair Use.
Fair Use §107 – Exception to Exclusive Rights

• [Notwithstanding the creator’s rights-§106] the fair use of a copyrighted work, including such use by reproduction in copies ... or by any other means specified by that section, for purposes such as criticism, comment, news reporting, teaching (including multiple copies for classroom use), scholarship, or research, is not an infringement of copyright. In determining whether the use made of a work in any case is a fair use the factors to be considered shall include—

  • (1) the purpose and character of the use, including whether such use is of a commercial nature or is for nonprofit educational purposes;
  • (2) the nature of the copyrighted work [factual or fictional];
  • (3) the amount and substantiality of the portion used in relation to the copyrighted work as a whole; and
  • (4) the effect of the use upon the potential market for or value of the copyrighted work.

• The fact that a work is unpublished shall not itself bar a finding of fair use if such finding is made upon consideration of all the above factors.
Creative Commons Licensing

Jonathan Poritz
Associate Professor and Director,
Center for Teaching and Learning
Colorado State University Pueblo

These slides, by Jonathan A Poritz, are released under a Creative Commons Attribution-ShareAlike 4.0 International license. See https://poritz.net/j/share/inddex.html#CCnOER4WCET for remixable versions.
The Creative Commons Alternative to All-Rights-Reserved Copyright

1. Public domain dedication tool, CC0
   - Puts work into worldwide public domain
2. Public domain mark, PDM
   - Marks a work known to be in the public domain
3. Creative Commons Attribution, CC BY
   - Give credit to the original creator
4. Creative Commons Attribution-ShareAlike, CC BY-SA
   - Give credit and derivatives to be released under same license
5. Creative Commons Attribution-NonCommercial, CC BY-NC
   - Give credit and don’t use to make a profit
6. Creative Commons Attribution-NonCommercial-ShareAlike, CC BY-NC-SA
   - Credit, no profit, derivatives under same license
7. Creative Commons Attribution-NoDerivatives, CC BY-ND
   - Credit, may not share derivative works publicly
8. Creative Commons Attribution-NonCommercial-NoDerivatives, CC BY-NC-ND

CC licenses are built on top of copyright, so

- You must control the rights on a work to put it under a CC license. [Also true of CC0.]
- CC license terms do not apply when a work is used by fair use or other exception/limitation of ©.
- CC licenses apply to expressions, not ideas. Copy/remix/distribute ideas as much as you want!

CC licenses are irrevocable, but a rightsholder can put out a work under different licenses at different times. Rightsholders are not bound, themselves, by the limits imposed on the public by a CC license.
Open Educational Resources [OER]: Potential

“OER are teaching, learning, and research resources that reside in the public domain or have been released under an intellectual property license that permits their free use and re-purposing by others. Open educational resources include full courses, course materials, modules, textbooks, streaming videos, tests, software, and any other tools, materials, or techniques used to support access to knowledge.” -- William and Flora Hewlett Foundation
Open Educational Resources [OER]: Potential Continued

- “Free repurposing” and Wiley’s 5Rs amount to nothing more or less than pedagogical academic freedom.
  - In fact, it’s a little weird that faculty are so accepting of educational resources under ARR ©...
- “Free use” amounts to getting off the gravy train (for publishers) which has seen textbook costs rise at many times the rate of inflation. It’s hard to justify textbooks that cost $200 or even $300 or $400 when: total student debt in the US is $1.74 trillion; 39% of students surveyed in 2019 were food insecure in the month prior to be surveyed, 46% were housing insecure in the prior year, and 17% were homeless.
- Because of textbook cost, students take fewer classes, do more poorly, take longer to complete their studies, etc.; many students do not buy required texts or online access, but share books or skip those points.
- Studies show when courses switch from commercial resources: student and instructor satisfaction goes up; academic performance goes up and DFW rate goes down -- and these effects are significantly larger for Pell-eligible and self-identified minority students, by as much as a factor of three.

<table>
<thead>
<tr>
<th>5 Rs</th>
<th>Wiley:</th>
<th>Jhangiani:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Retain</td>
<td>Respect</td>
<td></td>
</tr>
<tr>
<td>Reuse</td>
<td>Reciprocate</td>
<td></td>
</tr>
<tr>
<td>Revise</td>
<td>Risk</td>
<td></td>
</tr>
<tr>
<td>Remix</td>
<td>Reach</td>
<td></td>
</tr>
<tr>
<td>Redistribute</td>
<td>Resist</td>
<td></td>
</tr>
</tbody>
</table>
The Good:

- OER have saved students at least $1 billion.
- Millions of students use OER, at more than half of US colleges and universities.
- The Open Textbook Library (open.umn.edu/opentextbooks) has 766 books, most reviewed by instructors.
- OpenStax (openstax.org) has around 60 textbooks that look very much like commercial ones.
- LibreTexts (libretexts.org) hosts nearly 400 resources and has a sophisticated remix tool.
- OASIS (oasis.geneseo.edu) and OER Commons (oercommons.org/) are OER search engines.
- Platforms like PressBooks (pressbooks.com), PreTeXt (pretextbook.org), and others make copying, adapting, and creating beautiful OER quite easy.
- Organizations like The Open Textbook Network (open.umn.edu/otn) and The Rebus Community (rebus.community) support campuses with organization, platforms, training, etc.
- All of these wonderful resources and tools circulate freely and without legal obstacles to the 5R permissions because they are under Creative Commons licenses.
OER: Reality Continued

*The Bad and the Ugly:*

- OER may not have as many supplemental materials as commercial resources - but this is improving!

- OER are thought not to be as accessible (i.e., ADA-compliant) as commercial resources - this is **false**.

- Most problematic: there is a widespread belief that “you get what you pay for,” so OER must be worthless since they cost nothing. This is in fact the opposite of the truth, for the academic freedom reasons mentioned above among many other reasons -- e.g., open [or OER-enabled] pedagogy is the most interesting and powerful pedagogical innovation that has happened in decades!
Conversation with our Speakers

Jim Burger
Partner
Thompson Coburn LLP

Jonathan Poritz
Associate Professor and Director,
Center for Teaching and Learning
Colorado State University Pueblo

Rebecca Van de Vord
Assistant Vice President of AOI and
Director of Learning Innovations
Washington State University
Questions from the Audience
Contact Information

Jim Burger                      jburger@thompsoncoburn.com

Rob Coyle                      rob.coyle@umgc.edu
                              @robcoyle

Jonathan Poritz                jonathan.poritz@csupueblo.edu
                              @poritzj
                              https://poritz.net/jonathan

Rebecca Van de Vord            bvandevord@wsu.edu
Learn More and Stay Connected

Visit WCET’s website to learn about our Focus Areas, Initiatives, Events, Membership and Sponsorship: http://wcet.wiche.edu/

Join WCET: learn more about the benefits of joining our national community: http://wcet.wiche.edu/join-wcet
Join us for

#WCET2020

https://wcet.wiche.edu/events/annual-meeting
Access to the resources discussed during this webcast, including the archive, will be available next week.

https://wcet.wiche.edu/connect/webcasts
Thank you **Supporting Members** for your commitment to WCET and eLearning

Colorado State University

Cooley, LLP

Michigan State University
Thank you WCET
Annual Sponsors

Learn more
https://wcet.wiche.edu/get-involved/sponsorship/sponsors
THANK YOU

• wcet.wiche.edu