

Copyright in Libraries 2020

COPPUL Scholarly Communications SkillShare - Online conference
April 30, 2020

Christina Winter, University of Regina
Kate Langrell, University of Saskatchewan

Agenda

- Copyright and COVID-19
- Summary of Copyright Act review
- Copyright court cases
- Copyright Board of Canada
- CUSMA
- Crown copyright

COVID-19, Copyright and Libraries



Temporary Access

Project Muse, Vital Source, Proquest ebooks

Most of these offers are currently scheduled to end in the spring.

Covid-19, Library Response and Calls for Increased Access

- ICOLC List of resources being temporarily opened up - <https://bit.ly/icolceas>
- IARLA Statement on Access to Digital Content for Education and Research During the Period of COVID-19 Response <https://iarla.org/2020/04/statement-access-digital-content/>
- ICOLC's Statement on the Global COVID-19 Pandemic and Its Impact on Library Services and Resources

COVID-19 and Copyright Advocacy

Position statements and open letters

- [CARL Statement](#) on Optimal Equitable Access to Post-Secondary Learning Resources During COVID-19
- [Open letter](#) to WIPO
- UK [Letter to ministers](#): Copyright and enabling remote learning and research during the COVID-19 crisis

COVID-19 and Copyright Guidance from the Library Community

- **Canada:** Serving Student Access Needs As We Rapidly Shift to Online Course and Exam Delivery: Copyright Considerations (CARL)
- Fair Dealing and Emergency Remote Teaching in Canada (Sam Trosow & Lisa Macklem)
- **US:** Statement on Fair Use & Emergency Remote Teaching & Research: <https://tinyurl.com/tvnty3a>
- **UK:** Copyright, Fair Dealing and Online Teaching at a Time of Crisis (UK Copyright Literacy [blog post](#))

HathiTrust's Response to COVID-19



Library is closed

Internet Archive's Response to COVID -



COVID-19 & Importance of OPEN ACCESS

<https://opencovidpledge.org/about/>

“...developed by the Open COVID Coalition, an international group of scientists and lawyers seeking to accelerate the rapid development and deployment of diagnostics, vaccines, therapeutics, medical equipment and software solutions in this urgent public health crisis.”

COVID-19 & Importance of OPEN ACCESS

“It is a practical and moral imperative that every tool we have at our disposal be applied to [halt the COVID-19 Pandemic and treat those it has affected] on a massive scale without impediment.

We therefore pledge to make our intellectual property available free of charge for use in ending the COVID-19 pandemic and minimizing the impact of the disease.

We will implement this pledge through a license that details the terms and conditions under which our intellectual property is made available.” – <https://opencovidpledge.org/>

COVID-19 & Importance of OPEN ACCESS

“Every Open COVID License (OCL) grants the public worldwide permission to use the pledgor's intellectual property rights (copyright and patent rights, or patent rights only) so long as they are used for the purpose of diagnosing, preventing, containing, and treating COVID-19.”

<https://opencovidpledge.org/license/>

1. OCL-PC v1.0: Patents and copyright, ends one yr. after pandemic ends
2. OCL-PC v1.1: Patents and copyright, ends when “the WHO declaration that the COVID-19 pandemic has ended, or January 1, 2023” (**whichever first**)
3. OCL-P v.1.1: Same as OCL-PC v1.1 but for patents only

Canadian Copyright Act Review

- INDU Committee [report](#) released June 2019
 - Positive for education, research, user rights
 - Recommendation Highlights: expansion and further study of fair dealing, digital lock exception for permitted purposes, openly-licence government material (instead of using Crown Copyright), create a new informational analysis exception
 - May 2019 - Canadian Heritage released a [related report](#) on remuneration models for artists and creative industries

Canadian Copyright Act Review

“In March 2018, INDU invited CHPC to contribute to the review by conducting a study on remuneration models for artists and creative industries, and by providing INDU with a summary of its findings.

As master of its own proceedings, CHPC chose instead to present a report to the House of Commons and ask for a response from the Government of Canada.”

INDU Committee News Release, June 18 2019,

<https://www.ourcommons.ca/DocumentViewer/en/42-1/INDU/news-release/10581857>

K-12 Lawsuit

2018

Federal Court Action T-326-18

- K-12 school boards in Ontario and Ministries of Education (outside of Quebec, Ontario and British Columbia) filed a lawsuit against AC for repayment of copyright royalties
- AC filed a statement of defense and a counterclaim

2019

- Court order for 300 schools to participate in the discovery process

Access Copyright vs. York University

York University v The Canadian Copyright Agency (“Access Copyright”), 2020 FCA 77

- AC's Copyright Board interim tariff and final tariff are not mandatory
- Dismissed York's counterclaim with regard to its fair dealing guidelines

Post-Secondary Tariffs

- Copyright Board of Canada literary works tariffs: <https://cb-cda.gc.ca/decisions/reprographic-reprographie-e.html>
- To cover copying in the years 2011-14 & 2015-17, but not released until December 2019
- Final amounts similar to those requested by Access Copyright
- Copyright Board did not weigh in on mandatory vs. voluntary nature of the tariffs

CUSMA

- Bill C-4 received royal assent on March 13, 2020
- Term of copyright protection will first be increased for anonymous and pseudonymous works; sound recordings; cinematographic works
- Not retroactive
- Gov. has 30 months to determine the process (e.g., possible registration system to extend © for literary works)



Crown Copyright

- Private member's bill put forward by NDP MP Brian Masse
- C-209 An Act to amend the Copyright Act (Crown copyright)
- Bill C-209, An Act to amend the Copyright Act (Crown copyright), 1st Sess, 43rd Parl, 2020:

<https://www.parl.ca/DocumentViewer/en/43-1/bill/C-209/first-reading>

Crown Copyright

1 Section 12 of the *Copyright Act* is replaced by the following:

No copyright — Her Majesty

12 Without prejudice to any rights or privileges of the Crown, no copyright subsists in any work that is, or has been, prepared or published by or under the direction or control of Her Majesty or any government department.

Thank You!

Questions?

christina.winter@uregina.ca

kate.langrell@usask.ca

Image credits

Slides

COVID-19, Copyright and Libraries

<https://www.pexels.com/photo/row-of-books-in-shelf-256541/>

Temporary Access

Photo by [Bilakis](#) from [Pexels](#)

Hathi Trust Response to COVID-19

Photo by [Hermann](#) from [Pixabay](#)

Internet Archive Response to COVID -19

[Internet Archive](#) by [Evan Carroll](#) available under [CC BY NC SA 2.0](#)

COVID-19 & Importance of Open Access

[Open Access logo](#) by <http://openaccessweek.org/> is licensed under [CC BY 4.0](#)

CUSMA

[North American Agreement \(orthographic projection\)](#) by Heraldry is licensed under [CC BY-SA 3.0](#)

Bibliography

- Canadian Association of Research Libraries (24 March 2020). Serving Student Access Needs As We Rapidly Shift to Online Course and Exam Delivery: Copyright Considerations.
https://docs.google.com/document/d/1QlrFXbjTVNkqcRkoGPhqCcOeB_DVi8S6KzbYvxbJPao/edit
- CBC News. (2 December, 2019). 9 N.L. schools randomly chosen to go over copyright records tied to legal spat. *CBC News*, Retrieved from <https://www.cbc.ca/news/canada/newfoundland-labrador/schools-closed-copyright-court-order-1.5380700>
- CBC News. (17 December, 2019). Guelph public school board ordered to hand over lesson plans as part of lawsuit. *CBC News*, Retrieved from <https://www.cbc.ca/news/canada/kitchener-waterloo/upper-grand-district-school-board-access-copyright-lawsuit-1.5398125>
- CBC News. (9 January, 2020). Whitehorse school among 300 required to turn in teaching plans as part of copyright lawsuit. *CBC News*. Retrieved from <https://www.cbc.ca/news/canada/north/fh-collins-copyright-lawsuit-1.5421142>
- Crabb, J. (13 December, 2019). Manitoba teachers handed homework by federal court, CTV News, Retrieved from <https://winnipeg.ctvnews.ca/manitoba-teachers-handed-homework-by-federal-court-1.4730003>
- Di Valentino, L. (27 April, 2020). Education is the key: discussion of Access Copyright v York University 2020 FCA 77, *Fair Dealing in Education*, Retrieved from <https://fairdealingineducation.com/2020/04/27/education-is-the-key-discussion-of-access-copyright-v-york-university-2020-fca-77/>

Bibliography

- Duncan, J. (26 December, 2019). 8 Guelph schools ordered to show 7 years of lesson plans. *GuelphMercuryTribune.com*. Retrieved from <https://www.guelphmercury.com/news-story/9781195-8-guelph-schools-ordered-to-show-7-years-of-lesson-plans>
- Gerbrandt, C. (8 December, 2019). What Exactly Is The Lawsuit Afflicting HSD Teachers? *SteinbachOnline.com*, Retrieved from <https://steinbachonline.com/local/what-exactly-is-the-lawsuit-afflicting-hsd-teachers>
- Gerbrandt, C. (29 November, 2019). Hanover Teachers Caught Up In Canada-Wide Court Case. *SteinbachOnline.com*, Retrieved from <https://steinbachonline.com/local/hanover-teachers-caught-up-in-canada-wide-court-case>
- Government of Canada. (20 January, 2020). Canada-United States-Mexico Agreement (CUSMA) - Intellectual property chapter summary. Retrieved from <https://www.international.gc.ca/trade-commerce/trade-agreements-accords-commerciaux/agr-acc/cusma-aceum/ip-pi.aspx?lang=eng>
- Geist, M. (28 February, 2020). The CUSMA cost. <https://www.michaelgeist.ca/2020/02/the-cusma-cost/>
- Geist, M. (27 April, 2020). *The LawBytes Podcast*, Episode 48: Sam Trosow and Lisa Macklem on Copyright and Fair Dealing During a Pandemic [Audio podcast]. Retrieved from <http://www.michaelgeist.ca/2020/04/lawbytes-podcast-episode-48/>

Bibliography

- Geist, M. (23 April, 2020). *Federal Court of Appeal Deals Access Copyright Huge Blow As It Overturns York University Copyright Decision* [Blog post]. Retrieved from <http://www.michaelgeist.ca/2020/04/federal-court-of-appeal-deals-access-copyright-huge-blow-as-it-overturns-york-university-copyright-decision/>
- Hamilton-McCharles, J. (16 December, 2019). Near North board dragged into copyright dispute. *North Bay Nugget*. Retrieved from <https://www.nugget.ca/news/local-news/near-north-board-dragged-into-copyright-dispute>
- HathiTrust. (n.d.). ETAS: Information for Users. *HathiTrust*. <https://www.hathitrust.org/ETAS-User-Information#FAQ>
- Holland, A. (2020, April 10). The Internet Archive's New "National Emergency Library" Generates A Range of Strong Reactions. *Medium*. <https://medium.com/berkman-klein-center/the-internet-archives-new-national-emergency-library-generates-a-range-of-strong-reactions-10afc5d2abf7>
- May, K. (14 December, 2019). Copyright litigation extra work for teachers. *Winnipeg Free Press*, Retrieved from <https://www.winnipegfreepress.com/local/copyright-litigation-extra-work-for-teachers-566205481.html>
- The Open Covid Coalition (7 April, 2020). The Open Covid Pledge. <https://opencovidpledge.org/>

Bibliography

- Savage, S. (31 March, 2020). Bill C-4 receives royal assent. <https://copyright.ubc.ca/2020/03/31/bill-c-4-receives-royal-assent/>
- Saxon, T. (18 December, 2019). UGDSB has to hand over documents as part of national lawsuit, *GulephToday.com*. Retrieved from <https://www.guelphtoday.com/local-news/ugdsb-has-to-hand-over-documents-as-part-of-national-lawsuit-1971851>
- Project Muse. (n.d.). Free Resources on MUSE During COVID-19. *Project Muse*. <https://about.muse.jhu.edu/resources/freeresourcescovid19/#covid19resources>
- Proquest. (2020, March 25). Coronavirus-Impacted Libraries Get Unlimited Access to Ebook Central Holdings. Proquest. <https://www.proquest.com/blog/pqblog/2020/Coronavirus-Impacted-Libraries-Get-Unlimited-Access-to-Ebook-Central.html>
- VitalSource. (2020, March 24). VitalSource and Publishers Expand Free Access to eTextbooks Internationally during COVID-19 Pandemic. *VitalSource*. <https://press.vitalsource.com/vitalsource-helps-international>
- Trosow, S. and Macklem, L. (2020, March 21). Fair Dealing and Emergency Remote Teaching in Canada. [Blog post]. <https://samtrosow.files.wordpress.com/2020/03/fair-dealing-and-emergency-remote-teaching-in-canada-1-1.pdf>
- von Stackelberg, M. (13 December, 2019). 'A logistical nightmare': Teachers at 300 Canadian schools ordered to provide 7 years of lesson plans. *CBC News*. Retrieved from <https://www.cbc.ca/news/canada/manitoba/school-lesson-plans-1.5393384>
- *York University v The Canadian Copyright Agency* ("Access Copyright"), 2020 FCA 77