The Advent of Xerox Photocopier and Copyright

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Overview

- Argument: The advent of Xerox machines sparked many copyright issues, and the conflicts between publishers and libraries built up to a reexamination of copyright laws.

- Brief history of Xerox machine

- Conflicts between journal publishers and libraries

- “Fair Use”

- Legal proceedings

- Conclusion/further research
Research Questions

- How do the controversial uses of Xerox machine by educational institutions affect the publishers?

- How does “Fair Use” play a role in affecting the copyright laws?

- What specific court cases had the most influence during this time period?
The first successful commercial plain paper copier which in 1959 revolutionized the document-copying industry.
“Whereas Caxton and Gutenberg enabled all men to become readers, Xerox has enabled all men to become publishers”

- Marshall McLuhan

“What Hath Xerox Wrought” (Time 1976)
Publishers’ Reactions

- The Xerox machines have not been a threat to publishers of books, magazines, and newspapers.
- The greatest impact of the photocopier has been in the scholarly journal industries.

[23] “It’s the new Copyright Compliance Center.
We used to call it a library.”
According to the CICP survey, “the total annual copying of published material...is very largely library copying”.
Conflicts Between Journal Publishers and Library

- Libraries and educators have felt a need to reproduce copyrighted works for their serious scholarly and research purposes.

- Publishers: Massive photocopying violated copyright and threatened to reduce subscriptions of journals.

- Libraries: Photocopying is essential to providing information.
Fair Use

The main exception to copyright
Education/ research/ non-profit etc.
What is Fair Use?

- The **fair use** of a copyrighted work, including such use by reproduction in copies or photo records 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.
What is Fair Use?

- the purpose and character of the work, including whether such use is of a commercial nature or is for nonprofit educational purposes;
- the nature of the copyrighted work;
- the amount and substantiality of the portion used in relation to the copyrighted work as a whole; and
- the effect of the use upon the potential market for or value of the copyrighted work.
“It has become dramatically easier to make copies of printed materials since the advent of the Xerox 914 copier in 1959.”

--S.J. Liebowitz

COPYRIGHT LAW, PHOTOCOPYING, AND PRICE DISCRIMINATION
Williams & Wilkins Co. v. United States (1973)

- Photocopying → duplication of articles & excerpts → publications
- The company sued the U.S. government
- National Institutes of Health and National Library of Medicine had duplicated a total of 2.2 million pages from all sources in 1970 alone.
- The Government contended that the photocopying amounted to "fair use"
Other Court Cases

- Folsom v. Marsh (1841)
- Macmillan Co. v. King (1914)
Other Court Cases

- Los Angeles News Serv. v. Tullo (1992)
- Union v. Texaco Inc. (1994)
Provisions of the 1976 Copyright Act Affecting Photocopying

- Copying for teaching purposes
- Specific exemptions for photocopying by libraries and archives
- Revision due to:
  - Technological developments
  - Statute needed to be amended
1976 Copyright Act (Revised)

- Fair use and first sale doctrines codified
- Copyright extended to unpublished works.
- Section 108 –
  - “scholarship, preservation, and interlibrary loan under certain circumstances.”
Problem
Conclusion

- The machines exerted pressures on the government to make extensions and adjustments to the copyright laws mainly the Copyright Act of 1976.
Further research

- More details on the definition of “Fair Use”
- Explore the question, “Which would suffer most, research or publishing, if photocopying were not available?”
Thank You!