

Copyright and Fair Use: Some Good News...

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Cover Story

There have been some developments in the past six months or so which have raised my hopes for the future of educational use of intellectual property, and I'd like to share these with the SUNY library community.

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The first one, although far from a "done deal", is that the infamous [Georgia State e-reserves](#) case is close to being decided. That's the one where [publishers](#) Cambridge, Oxford, and Sage have filed suit against Georgia State University, including the director of libraries, for copyright infringement in their reserves system. Back in February, both sides petitioned to allow Judge Orinda Evans to issue [a summary judgment](#) without actually going to trial, which usually only occurs when both sides are convinced they have the better case. Judge Evans has been asking for materials from both the publishers and the university this summer for her to study before issuing a decision, and she specifically asked to see the amount it would cost for students to purchase the disputed materials. It's widely thought that this case will be decided very soon, and although the outcome is difficult to predict, the decision may bring a bit more stability and structure to the myriad e-reserves decisions which librarians are called upon to make.

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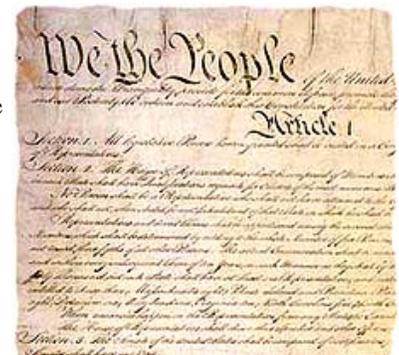
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The second bit of good news is that the proposed [Federal Research Public Access Act](#), introduced into the Senate on June 25, 2009, was also introduced into the House of Representatives on April 15, 2010, and is currently being reviewed in Committee. The bill proposes free public access to a wide variety of federally funded research; as the law currently stands, only the National Institute of Health is required to make federally funded research publicly available (Consolidated Appropriations Act of 2008).

The most recent affirmation is the latest ruling by the Copyright Office titled "[Exemption to Prohibition on Circumvention of Copyright Protection Systems for Access Control Technologies.](#)" The Digital Millennium Copyright Act of 1998 charged the Librarian of Congress with reviewing "comments from all interested parties" every three years and ruling on exemptions of "certain classes of works from the prohibition against circumvention of technological measures that control access..." The latest ruling, which went into effect July 28, 2010, allows "the incorporation of short portions of motion pictures into new works for the purpose of criticism or comment, and where the person engaging in circumvention believes and has reasonable grounds for believing that circumvention is necessary to fulfill the purpose of the use in the following instances: (i) Educational uses by college and university professors and by college and university film and media studies students; (ii) Documentary filmmaking; (iii) Noncommercial videos." Exemptions to circumvention of access control technologies are also allowed for certain uses of computer programs, video games, and e-books.

These developments clearly indicate that lawmakers are still concerned with keeping avenues to educational uses of intellectual property open and flowing. As librarians and information professionals, we should find this to be very heartening news.

Some say that educators go too far in using the work of others, particularly in the digital classroom; however, the main purpose of copyright as stated in the Constitution is to "promote the progress of science and the useful arts," and that's what education, and libraries, are all about.



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