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ACQUISITION COPYRIGHT AND LICENSING OF ELECTRONIC RESOURCES IN THE NEW INFORMATION SOCIETY

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Abstract

This paper dealt on the issues of acquisition, copyright and licensing of electronic resources. Guidelines for acquiring electronic resources were also discussed. Copyright and licensing of digital resources is not easily implemented and this has resulted in some countries responding to the demands of owners, agents and publishers in passing through the setting up of Digital Right Management System (DRM), and the Digital Millennium Copyright Act (DMCA). These measures have given copyright owners the right of ownership to their works. DMCA made legislation meant to safeguard fair use. The measure also stipulates that control access and use of copyrighted materials must only be effective through the signing of licensing agreements between owners and their users. The paper recommends that Nigeria, like other countries should ensure that the copyright laws and licensing standards are maintained.

Introduction

The advent of Information and Communication Technology (ICT) has accelerated the issues of acquisition of copyright and licensing of electronic resources. Library is a reservoir of knowledge and a repository of information resources. It is an integral part of educational system whose primary function is to serve its users. Computers and related electronic resources have come to play a central role in education (Lang, 2008). In effect, electronic resources are the prime ingredients to the dissemination of digital

information in this new information society and they have become a common part of the suite of many library resources today.

Vincent, Victoria & Scholastic (2009) define electronic resources as computer network facilities such as online library catalogues and the information resources that are available and accessible electronically through internet, the World Wide Web, digital libraries and archives, government portals and website including CD-Rom databases and online academic databases. They also include Medline or commercial databases such as LEXIS and NEXIS. LEXIS and NEXIS Group is a company that provides computer-assisted legal research services. In 2006, it had the world's largest electronic database for legal and public records related-information. Ravichandra-Rao (2000) stated that in early 70s, most of the electronic resources were available on magnetic tapes which were not online. Jodelis (2003) also remarks that the various types of resources that are available and accessed today are Internet, (locally produced e-resources); Internet, (also called online or remotely stored e-resources); Internet, (also called online or remotely stored e-resources) and physical media, (stored data on CD-ROM, audio, video cassettes etc). The third one is much like the traditional paper-based publications only that they require computer hardware and software for their utilization. Electronic resources are information packages made available in digital format. These electronic resources comprise online journal databases, CD-ROM/DVD and audio/video materials. Mostly, the online journal databases cover all full text journal databases such as Association for Computing Machinery (ACM), Digital Library, American Society of Civil Engineers (ASME), American Society of Testing and Materials (ASTM), journals and standards (Naidu, Rajput Prabhat & Montiyani, 2008). The introduction of Electronic Information Resources (EIRs) is becoming widespread going by the rapid growth in awareness and use of the resources (Peled & Rashy, 1999). According to Sheared, Ceddia & Hurst (2003), professional expertise and experience make the efficient use of e-resources possible.

Libraries all over the world make available, a wide variety of EIRs for use by undergraduates, postgraduates, researchers and staff in various institutions. Therefore, acquisition in libraries should embrace the procurement of information resources in different formats. This should involve all the needed procedures in bringing to the library, all needed information resources to satisfy the broad goals of the parent institutions in concert with the information needs of their users. The procedures and methods, just as it has been, may include purchase, exchange, gifts, bequeaths and deposits.

We are in an information age in which the growth of literature is in a geometrical progression. As a result, librarians are faced with the problem of choosing among many available resources to satisfy the information needs of the teeming library users who always expect the best of services from the library. To meet up with this all embracing challenges, librarians as professionals should be guided by certain selecting policies and criteria to ascertain information resources that are worthy of acquisition.

Clarke (1999) states that copyright is the right of owners to protect their expression such as the work of a literary, dramatic, musical, artistic or cinematographic nature. Copyright is a way of protecting an author's original work from misuse. The owner or the producer has the exclusive right to reproduce it, make derivative works from it, perform and display it publicly and use almost any other means to present it such as, play or movie. Copyright owners of work also have exclusive rights to permit anyone else to do the same. Furthermore, copyright protects the expression of ideas and not the ideas themselves. Therefore, copyright infringement occurs when a substantial part of a book or work is reproduced without the owner's permission, often times for economic gain. Ideally, an individual's use of other people's works must either acknowledge the use of such work and, / or seek the owner's permission to do so. There are however, a number of exceptions where copyright of works are accepted, and these include fair use, fair dealing and first sale. Fair use allows content users to access, make copies and use copyrighted materials without seeking permission as long as the use is for educational research and non-profit making purposes.

According to Moahi (2004), fair use or fair dealing is one of the provisions in many copyright laws. In this provision, copyright and distribution are allowed for the purpose of research and studies, as well as reproducing materials to enable disabled individuals to access them. First sale provides for the right to content users who have purchased products such as books, to lend them out, to sell as second-hand rates, for instance, translating it into Braille. All these can be done without first seeking the permission of copyright owners. Fair use consists of a set of guidelines that outline what constitutes allowable use of copyright materials. Librarians and libraries in this new information society need to have comprehensive overview of the knowledge of copyright law, licensing of electronic materials and how to acquire electronic resources. Therefore, the problem is choosing the right electronic information resources among the wide-range of materials as well as acquiring electronic materials that are legally

licensed so that libraries will not be filled with information resources that have no copyright and license backing.

The general objective of this paper is to examine the acquisition, copyright and licensing of electronic resources in libraries. Specifically, the objectives of this study are to:

- ❖ Examine the categories of electronic information resources.
- ❖ Identify the guidelines for the acquisition of electronic resources
- ❖ Discover the rules guiding the licensing of electronic resources.
- ❖ Identify the effect of electronic resources licensing agreement to information practitioners.
- ❖ Examine the measures taken to protect copyright electronic resources.

Guidelines for Acquisition and Licensing of Electronic Resources

California State University (2005) presented policies that should guide the acquisition of electronic resources. Electronic resources must meet the information needs of the user by providing a selection of materials that directly support the diversity of academic programmes of an individual. There should be sufficient interest among the various libraries to consider the resources for acquisition. The resources should provide materials that offer alternative avenues of learning to users on a 24/7 bases. Balance of content between the various users should be sought when choosing electronic resources and should respect the different information needs of each user.

Priority will be given to resources that will benefit the greater number of user. If the electronic resources have a print equivalent, the online version should contain the same content as the print version, including any book reviews, editorials, graphs, charts and illustrations. Libraries should be notified concerning changes in the interface or content with sufficient lead time, normally a month notice. If there is significant change in the overall context of the database or its interface, it should be re-evaluated for its appropriateness as a library resource. There are also usage restrictions of electronic resources.

Licensed resources are commercial information resources paid by users. There resources can be accessed only by employees and user of those libraries and the use can be for academic purposes only. Access to electronic resources is allowed only for computers connected in most libraries' network via remote access services. Electronic resources may not be used for any non-academic (and non print) purposes; there are only allowed for personal studies. Massive downloading of resources

content is considered to be violation of license agreements, and consequently access to resources can be forbidden for library (Reese, 2003). Licensing agreements give the copyright owner authority to control how the content is used and tend to override the copyright law which may exist in a particular country or domicile. Licensing means that copyright owners even after selling the content for use can still dictate terms of how such information may be used and accessed, for how long.

This particularly affects information providers such as libraries that are increasingly buying journals and other products in digital form. Not only are these products very expensive, but also the libraries are expected to sign license agreements that dictate who can use the products, and usually will restrict the repackaging of such information to cater for minority groups such as the visually impaired users. It also affects individuals as Lessig (2004) has shown through a very good example that copyright laws basically protect against copying. However, to use electronic or digital materials, one has to download or copy content to one's computer. Lessig also noted that prior to the internet, individuals could read copyright material that they have purchased as many times as they wanted. That act of reading over and over was not a copyright infringement, because to read the book, the individual did not have to make a copy. To use an electronic book or document, one has to first download the copy-effectively making a copy. To prevent this happening, licensing agreements and Digital Rights Management (DRM) technology would allow a number of times, beyond which the individual would be infringing copyright. Further, the technology is such that the DRM would not allow the individual to read the book beyond a number of times. In the digital environment, therefore, the user is controlled. This situation is not made easier by the fact that copyright owners are merging, and this becoming bigger and bigger and therefore, wielding more power over content users.

Categories of Electronic Resources Federated Search

Federated search as a technology came into existence as a result of the desire by database and electronic resource subscribers to search and retrieve resources from multiple and disparate sources on a single interface (Joseph, 2010). Some federal search solutions, or services include Webfeat: (<http://www.webfeat.com>), EBSCOhost;

Integrated Search: (<http://www.ebscohost.com>), SweetsWise (<http://wwwSwets.com>) (Swish-e (<http://www.swish-e.org>)).

Viral Reference: Virtual reference service refers to the remote delivery of reference sources and resources to users who are not inside the library 122physically. This service includes knowledge base, online charts, text messaging and co-browsing. Web services in the area of virtual or digital reference include Ref Desk (<http://www.refdesk.com>) question point- (<http://www.questionpoint.org>), library 2.0 (Wiki Blogs, Rss-Really simple syndication) (Joseph, 2010).

Digital Repository: This is an online searchable, web-accessible database containing intellectual works by scholars and researchers organized to increase access to scholarship and ensure their long term preservation. Some examples of repository system include Dspace- (<http://www.dspace.org>), Greenstone (<http://www.greenstone.org>), VITAL (<http://www.vtls.com/products/vital>) (Joseph, 2010).

Databases: JSTOR (<http://www.jstor.org>): Journal storage is a United State-based online system for archiving academic journals, back issues of several hundred well-known journals.

PubMed: (<http://www.pubmed.gov>). This is a free database for accessing the MEDLINE database of citation, abstracts and full text articles on life sciences and biomedical topics.

HINARI: Health Internet Access to Research Initiative, set up by the World Health Organization (WHO) and majors publishers to enable developing countries to access collections of biomedical and Health Literature.

Digital Libraries: A digital library may be perceived as an information service or a collection of electronic information resources, in which all the information resources are available in computer processable form. Mutuala & Ogedokun (2008) identified several examples of digital libraries to include: Bartleby Library – Great books Online (<http://www.bartleby.com>) is the pre-eminent Internet publisher of literature reference and verse. Similarly, Library of Congress (<http://www.loc.gov>) provides entrance to the catalogue and a number of collection projects and a large directory of links. The New York Public Library (<http://site>, mostly concentrating on digitalized special collections of texts and images).

Virtual Libraries: Virtual Library refers to information services or collection of electronic resources whose collections are entirely in virtual or digital form and information is accessed over a network. Such library provides access to virtual indexes, catalogues, and books according to Mutula & Ogedokun (2008), virtual library does not have physical space, where users visit to access information resources. Virtual libraries like electronic and digital libraries as defined would have all or some of the following information resources; databases, e-journal, e-newspapers, e-books, reference resources in e-format, selected websites, Online public access catalogues, e-mail and discussion forums newsgroups, web-conferencing, internet relay chat, I-phone, Internet radio.

Copyright and the Electronic Resources

The digital environment has changed the way content is accessed and used, especially on the Internet. Information can be communicated quickly to millions of individuals all over the world. Low cost, high quality copies of digital documents and objects can be made; such copies can be altered and manipulated in ways that may not be immediately obvious. It is important to state that the relationship between owners and users has change dramatically. According to Story, Darch & Halbert (2006), the ease of copying and distribution of digital materials through piracy has increased. Users do not see the need to pay for information products that can be freely available. Secondly, many users rightly feel that the doctrine of first sale has been upset. These wishes from moves by content owners in the entertainment industry to make it illegal for users who have legitimately bought products to make it illegal for users who have legitimately bought products to make copies, users in the eyes of content owners are viewed as pirates and thieves as they go about sharing music, information entertainment and other materials found on the internet. There is a gap between users who favour a culture of sharing and owners who favour a culture of information. Copyright owners and their agents have therefore, taken to lobbying for stricter and more stringent means of controlling access to information and other copyright materials.

Measures taken to Protect Copyright of Electronic Resources

Over the years, copyright owners all over the world and Nigeria in particular, have implemented technical and legal means of protecting their works from what they term “unauthorized use”. Copyright owners have pointed out that the relative ease that technology gives to users to make copies cut and paste etc has the effect of jeopardizing the owner’s economic interest and gains. As far back as the early years of computing

and networks, various Digital Rights Management (DRM) systems were in place. Software and database methods such as encryption requiring passwords and limits on the numbers of times software could be copied and database could be used. Even as DRM systems existed in the early days with reference to software, it was not until the World Intellectual Property Organization (WIPO), Internet treaties were put in place that intellectual property measures were articulated to embrace the change brought about by the digital era. These are the WIPO Copyright Treaty and the WIPO Performance and Phonograms Treaty which were created in 1996, and came into force in 2000. These treaties, according to Yu (2006), required legal provision to protect against the circumvention of DRMs. Protection measures for digital copyrighted works have increased in sophistication and legal measures (especially in the United States) have been instituted.

Protection of digital works has been facilitated by the use of Digital Right Management (DRM) technologies. For Bailey (2006), DRM is a collective name for technologies that prevent you from using a copyrighted digital work beyond the degree to which the copyright owner wishes to allow you use it. DRM ensures that works such as documents, objects, computer software, database etc can be subjected to access control measures such as passwords to unscramble encrypted works and licensing agreements. This means that digital materials can only be accessed through facilities such as logging in and providing passwords or through the recognition of the Internet Protocol (IP) address of the computer and user will be utilizing to gain access or through the use of access cards. The use of such technologies enables the copyright owners to use technology that grants certain rights to the users and prevents certain usage of the copyrighted work. DRM allows monitoring and control of how such materials are used, putting copyright owners in control of their works even as they charge user for them. There are two key technologies that make up a DRM system – digital markings and encryption. According to Bailey (2006), digital markings may be simple labels that attach rights information to content or watermarks that typically hide information that can be used to identify a work. Encryption involves scrambling content, so that those who have no authorization in the form of a code or password cannot decipher the contents.

The United State Congress, in response to the lobbying of owners, the agents and publishers, passed the Digital Millennium Copy Right Act (DMCA) in 1988. According to Lee (2006), US Congress by passing the DMCA, gave contents owners explicit

statutory protection.” The DMCA makes it a crime to crack or override DRM technology that helps to circumvent DRM. Indeed, according to Reese (2003), DMCA provides legal support for DRM, and gives copyright owners the right to control access to their works. However, DMCA legislation has provision meant to safeguard fair use. These according to Lepage (2003), include exceptions of the following:

- ❖ Encryption research – research into the effectiveness of encryption or into the ways and means of protection of contents;
- ❖ Reverse engineering for identifying how technology works in order to create technology that is compatible;
- ❖ Security testing;
- ❖ Access to database containing personal information; and
- ❖ Authorizing libraries, archives and education institutions, to access works for purpose of evaluating them for possible purchase.

However, in spite of the above exclusion, copyright owners have used the DMCA to impinge on various aspects of fair use. Another measure used to control access and use of copyrighted materials is the signing of licensing agreements between owners and users of knowledge. To protect their economic earnings, publishers and copyright owners have turned to the use of contract law, by enforcing the signing of licensing agreements as a prelude to gaining permission to use copyrighted works. For instance, for libraries to access a database, they may have to sign user license agreement that stipulates rights and obligations to the users. Copyright owners/content providers end up dictating terms of use to the content users. They dictate who may use such information, which may have access to it, how long they can use it, whether it can be translated or repackaged etc. licensing, therefore, affects fair use, first sale and public lending rights (especially, for libraries and information centers).

Recommendations

The paper recommends the following:

- The Nigeria, like other countries should ensure that the copyright laws and licensing standards are maintained by penalizing copyright law offenders.
- Original owners of works, agents and publishers as well as librarians should have a forum or a platform for safeguarding and disseminating electronic information resources.
- Many of the electronic can make use of the federal search information resource to retrieve needed information from a single interface for their research work.

- Reference librarians can be trained by the parent organizations to use the virtual reference resources to offer references services to lecturers, students and users that are not physically inside the library; through online chats, text messaging, twitter, facebook and even to-go.
- Funds should be provided for librarians as information experts to access and subscribe to standard, copyrighted and licensed digital repositories like dspace, and greenstone, etc to help build up their information delivery services to researchers and other users.

Conclusion

The paper stipulates that electronic resources are prime ingredients to the dissemination of information in this new information society. Libraries all over the world especially, in Nigeria should make available a wide variety of electronic information; through the acquisition of well assessed copyrighted and licensed electronic resources. Libraries and librarians as information experts are expected to maintain standards by ensuring not to violate the copyright standards and the licensing agreement. Measures have to be taken effectively by librarians as in done by the Digital Right Management (DRM) system to see that the owner's economic interest and gains are not jeopardized because of the easy ICT gives to users to download and print materials, hence the need for electronic restrictions to unauthorized users.

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