



PRESS RELEASE

CONTACT:

Shaun Manning
212.989.1010 x24
press@aaupnet.org

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Contact: Peter Givler, Executive Director: 212 989-1010, pgivler@aaupnet.org.

AAUP SUPPORTS UNIVERSITY PRESSES IN SUIT AGAINST GEORGIA STATE

In today's universities, it is increasingly rare for students to buy assigned books at the campus bookstore or purchase coursepacks at the local copyshop. Instead, professors often distribute assigned course readings electronically through digital course management, e-reserves, or similar systems. While many universities seek legally required permissions, others do not and simply distribute substantial excerpts from books and journals without permission or compensation. This has become a significant problem for university presses, who depend upon the income due them to continue to publish the specialized scholarly books required to educate students and to advance university research.

Against this backdrop, three scholarly publishers, Cambridge University Press, Oxford University Press, and Sage Publications, have recently filed suit against Georgia State University officials, citing a pattern of illegal distribution of copyrighted book and journal content through digital course management and similar systems controlled by Georgia State. The Association of American University Presses supports the difficult decision made by Cambridge and Oxford, both AAUP members, to take this action — particularly in light of its broad concerns for the critical role that university presses, which are non-profits, play in the world of university instruction and scholarly communications.

The basic legal issue in the suit, namely whether permissions are required for course materials, was forcefully addressed in *Basic Books v. Kinko's Graphics Corp.* (1991), which held that the coursepacks sold by Kinko's required the payment of permissions fees to publishers, and that the reproduction of a single chapter was "quantitatively [and] qualitatively substantial" under the Copyright Act. While AAUP respects the doctrine of fair use, which permits spontaneous and limited uses of copyrighted material for instruction, it is clear that universities need to seek permission for more regular and substantial uses of excerpts in coursepacks and other assigned reading. That the delivery method for coursepacks is digital rather than print-on-paper does not change the nature of the use or the content, and such uses are governed by the same legal principles established in earlier cases.

University presses are non-profits that operate on very thin margins, and their primary audience is the university community. Indeed, although university presses comprise only a small segment of the market, they supply a very significant



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proportion of the books and journal articles taught and read in universities, particularly in graduate and upper-level undergraduate courses. For example, a private study of the electronic reserves system at the University of California, San Diego, revealed that while university presses represented only 11% of the publishers in the system, they had published 35% of the posted materials.

University presses also serve a critical role for universities by providing faculty with a platform to publish their research, a role central to scholarship and the tenure system. Scholarly books and journals cost money to publish, and if university presses are to continue to play this valuable role, they need to be compensated for the use of their materials on campus. In sum, the university community is a complex, integrated system and, while it may seem superficially attractive to distribute published work to students free of charge, scholarly publishing in its current richness cannot survive if universities condone this path.

Many universities have understood these realities and have promulgated strong institutional policies on the digital use of copyrighted materials. Over the last two years, publishers have had productive discussions with several universities including Cornell, Syracuse, Marquette and Hofstra, all of whom have recently adopted sound copyright policies about the use of digital course materials. Several mechanisms currently exist for universities to obtain clearance for the use of these materials, whether through individual publishers or the Copyright Clearance Center. While many universities have adopted a centralized approach and treated electronic course materials as they do paper, Georgia State has flatly rebuffed repeated attempts by publishers to work toward an acceptable university policy and has continued to foster a system of widespread copyright abuse.

The decision to file a suit is never easy, and always a last resort. It is particularly painful for non-profit publishers to sue a university, even if in this situation it was unavoidable. "It feels like suing a member of the family" said AAUP Executive Director Peter Givler. "Unfortunately, the alleged infringement is like stealing from a member of the family."

The 127 members of the Association of American University Presses publish over 10,000 books and 700 journals annually in subjects ranging across the full spectrum of academic disciplines. Formally established in 1937, AAUP is dedicated to the support of creative and effective scholarly communications. Through its programs and information resources, AAUP helps its members fulfill their common commitments to scholarship, the academy, and society. Visit the AAUP Web site, www.aaupnet.org, to learn more about the Association and its members.

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