

Photocopiers face infringement laws

By MICHAEL MORROW
Of the Emerald

Most people ignore the "Warning Concerning Copyright Restrictions" signs posted above every self-service machine in Kinko's as they photocopy a friend's textbook.

However, like hundreds of other daily photocopy users, they probably are breaking federal law. PL 94-533 to be exact.

While it is improbable, they could end up being sued in federal court. If found guilty, they could be fined actual damages — the amount not spent on a textbook — and statutory damages of up to \$10,000.

While the McGraw-Hill publishing company probably won't haul a person through the mud as a "copyright infringer," it is concerned about the massive number of pages copied every year. One hundred pages of a textbook copied by several hundred students in several hundred universities adds up to a great loss of money.

As the numbers have mushroomed into the millions of dollars, members of the American Association of Publishers have grown concerned, as well as major copier manufacturers and the print shops and libraries that own the machines.

A recent court decision is adding fuel to the fire. The Ninth Circuit Court of Appeals rule Oct. 19 that Sony Corporation of America is liable financially for copyright infringement by individuals using their equipment in their own homes.

Sony was sued by Universal City Studios, which alleged it would lose revenues because advertisers wouldn't pay for air time on videotaped shows.

Deciding that enforcement is impossible at the actual level of infringement (the home), the courts went after the manufacturer. Thus, Xerox Corporation might be responsible financially for publishers' lost revenues due to copyright infringement by people using Xerox's photocopy machines.

Part of Xerox's legal department has been assigned to work on the problem fulltime, and Kinko's, a nationwide franchise of over 100 shops, asks each shop to send several hundred dollars monthly

Students, profs technically guilty

107: Limitations on exclusive rights: Fair use

Notwithstanding the provisions of section 106, the fair use of a copyrighted work, including such use by reproduction in copies or phonorecords 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. In determining whether the use made of a work in any particular case is a fair use the factors to be considered shall include—

- (1) the purpose and character of the use, including whether such use is of a commercial nature or is for nonprofit educational purposes;
- (2) the nature of the copyrighted work;
- (3) The amount and substantiality of the portion used in relation to the copyrighted work as a whole; and
- (4) the effect of the use upon the potential market for or value of the copyrighted work.

(Added Pub. L. 94-553, title I, 101, Oct. 19, 1976, 90 Stat. 2546.)

to a legal fund.

"No part of this publication may be reproduced in any form... including photocopy... without permission in writing from the publisher...."

This copyright statement, found at the beginning of most books and many other publications, is the law for local Kinko's manager Dave Gibson, despite its inconsistent interpretations and en-

forcement.

"We are not in business to infringe copyrights, and we will simply refuse to reproduce material that is obviously copyrighted," Gibson says.

Although Kinko's cannot police every document copied by the self-service machines, the law is posted visibly in the shop, he adds.

Gibson says he is sensitive to student

and faculty needs but says he must conform to copyright laws. For instance, every University faculty member must sign a release form assuring Kinko's that he or she is complying with the Fair Use clause.

The Fair Use clause interprets copyright laws and addresses the public's right of access to information.

Education, as a part of that information access guaranteed by the United States Constitution, is treated as a special case.

The clause recognizes a special need for "greater certainty and protection for teachers."

The clause allows teachers certain rights to copy material unavailable to the public. In a 1973 Federal case — Williams and Wilkins versus the United States — the court ruled "flat proscription on... photocopying would impede research."

While teachers are well protected, the status of students under the Fair Use clause is unclear.

The AAP view is instructors and students have similar purposes, and "fair-use copies are intended essentially to supplement the use of the purchased work and not to serve as a substitute," says Charles Lieb, the association's attorney.

"The guidelines offer a minimum standard," Vetri says. "They also leave a large gray area where it becomes the judgment of the individual."

The gray area scares Dave Gigler, manager of the EMU printshop.

"I used to get cold chills about some of the things that we would copy in here," Gigler says.

The idea of an FBI agent looking over a student's shoulder is pretty unreasonable at this point, but a legal decision that would require photocopy machine manufacturers to pay publishers money to offset revenue losses from copyright infringement apparently is possible.

A plan requiring print shops to pay publishers a set fee as a "license" currently is being discussed, Gigler says. Print shops "could copy anything at all, and that pool of money would go to publishers to offset lost revenues," he says.

The added fee, Gigler says, probably would be passed to the consumer by raising copy prices.

Students fail to pay tuition and registration

By ANN PORTAL
Of the Emerald

More than 180 University students paid tuition and fees late this term, and more than 200 students haven't paid at all.

Although the combined number of students who missed the second-week deadline is the lowest in two years, associate registrar Herb Cherek says he is concerned and would like to see a crack-down on late payments.

"I think two weeks into the term to pay your fees is rather liberal and permissive," Cherek says.

Students who have not yet paid tuition are attending

school improperly, he says. In addition, the University also must absorb the cost of producing registration materials and processing for students who never show up, Cherek says.

Nearly 99 percent of the student body paid fees during the first two weeks of the term, but 187 paid late and 236 still haven't paid.

Yet the total number of students who missed the deadline is the lowest in the past seven terms. The 423 students who failed to pay by Sept. 30 compares to 557 last fall and 648 last winter.

But the improvement doesn't impress Cherek. Processing late fees is time-

consuming and inefficient.

Late-paying students must have their fees reassessed and a late fee assessed. Late fines increased this year to \$10 for the first day and \$2 for each additional day, up to a total of \$50.

In addition, each student who misses the two-week deadline must submit a petition to the Academic requirements Committee, asking to be allowed to register late. Students are not considered formally registered until they pay fees.

That committee may begin taking a more serious look at each request and the reason given for late registration, Cherek says.

One frequent reason given so far this year is the late arrival of Guaranteed Student Loans. However, he says "the financial aid office has gone out of its way" to accommodate students whose loans are late, extending deferred tuition and emergency loans.

"There is ample opportunity to come up with some ways or means to pay fees." Cherek acknowledges students with prior debts, who are ineligible for emergency loans, may have problems coming up with tuition. But he says students who can't come up with \$180 for the first deferred tuition installment will have financial problems throughout the term.

Many of the late payers are chronic offenders who also have problems with financial aid, Cherek says, and he is trying to talk individually with those students.

Besides the administrative hassles caused by late fees, Cherek says the University loses entitlement money for each student who pays after the fourth week.

But Keith Jackson, assistant budget director for the State Board of Higher Education, says late fees have no effect on entitlement money. The board revises enrollment figures during the term, he says, and students who "eventually show up" can be added in.