Chapter 13
The Impact of Online Learning on Global Intellectual Property Issues

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ABSTRACT

Intellectual Property (IP) has long been an issue of debate among higher education institutions in the United States and other countries. However, determining ownership and the income dispersion of creative works is still a relatively new phenomenon which compounds delivery of education in a virtual world that knows no boundaries. Intellectual Property (IP) issues are numerous and often complex in higher education because colleges and universities are major suppliers and consumers of online learning, particularly in a global context. Many higher education institutions claim ownership of the materials created by faculty for online courses, and often the courses themselves; many more are plagiarized or used without the author’s permission as a result of teaching in an online environment. In addition,
global copyright laws are very unclear regarding the ownership of works created in an electronic environment. In the past, instructors created materials have been considered the intellectual property of the creator. The potential economic value of multimedia and online course materials has raised the stakes for higher education institutions and prompted them to critically examine how online learning has opened old wounds regarding the ownership of intellectual property.

INTRODUCTION

The proliferation of online education has created new challenges and relationships, often linking legal and ethical issues that formerly were thought of as separate and distinct (Aaron & Roche, 2015; David & Halbert, 2015). Issues such as copyright law require in-depth understanding as instructors develop courses, support materials, and Internet links for classes (Adams, 2008; Beebe, 2010). Universities and instructors are debating the ownership of the courses that are developed for electronic delivery via the Internet (Audretsch, Lehman & Wright, 2014). Many institutions have intellectual property policies to cover materials created in the tradition print media; few have policies concerning materials created for online learning (Hwang, Wu & Yu, 2016). Copyright issues have not challenged use of materials created for online courses, especially in the global marketplace (Hall, Helmers, Rogers & Sera, 2014). However, ownership and income are two very important factors for creating intellectual property in a global economy (Harms, 2012; Thursby & Kemp, 2002). Higher education institutions around the world are being influenced by for-profit entities that use content and delivery in a different culture with different intellectual property rights (Filippetti & Archibigu, 2010, 2015).

Many higher education institutions are currently creating or revising intellectual property policies, and the process by which these policies are adopted is of significant importance (Burkart, 2015; Wallace, 2007). Variations in institutional policies indicate that colleges and universities are taking very different positions on the issues created by the global marketing of higher education (Conner & Rabovsky, 2011).

The increased use of the Internet in education has compelled colleges and universities to re-evaluate, revise, and in many cases, create intellectual property (IP) policies (Christensen & Eyring, 2011; Skiba, 2015). Despite dramatic national efforts at improvement such as the Technology, Education, and Copyright Harmonization (TEACH) Act of 2001 and international efforts by the World Intellectual Property Organization, many higher education institutions do not have adequate policies to govern the determination of rights to copyrightable materials (Porter, Graham, Spring & Welch, 2014). The creation of policies are further complicated by copyright laws that remains very unclear regarding the ownership of works created in an electronic
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