Copyright for Educators

HISTORY OF COPYRIGHT IN THE ANGLO-AMERICAN WORLD
The idea of copyright

• Began with royal “Letters Patents”
  – Exclusive right granted to a printer to print a particular book or category of books
  – Printer then purchase the “copy” from author
  – Provided the king with control
    • Over a new technology
    • Over what could be read
The Royal Company of Stationers

• Chartered by Queen Mary in 1557

• Licensing Act of 1662
  – Gave Stationers exclusive right to print books
  – Could seize and burn unauthorized publications
  – Continued royal control
  – Guild rules gave exclusivity even to printers not under separate royal Patent

• Registry

Photo by Michael Caroe Anderson, from Flicker
Deposit requirement

• Stationers agreed to deposit a copy of every new book in Oxford University library.
  – Signed agreement with Thomas Bodley in 1610
Charter lapsed in 1695

- Subsequent disputes over unwanted competition
- Stationers lobbied Parliament for permanent renewal of their privilege.
  - Early efforts failed
  - Change of tactics to stress benefits to authors.
Statute of Anne (1710)

- Exclusive right in “copy” for 14 years
  - Given to author & chosen printer
  - Obtained through registration with Stationers’ company and deposit of published book
  - Did not protect unpublished works
  - Author, if living, could renew for another 14 years.
Battle of the Booksellers

• When copyright expired, London stationers tried to stop competition from Scottish printers.
  – Claimed authors’ “Natural right”

• *Donaldson v. Beckett* (1774)
  – House of Lords decided that statutory term was end of right
    • For both author and publisher
U.S Constitution

• Article 1, section 8 empowers Congress
  – “To promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries.”
  • Copyright & patent laws
• Only grant of Congressional power tied to a purpose.

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American copyright

• **1790** – “maps, charts & books” protected for 14 years with a 14 year renewal

• **1831** – 28 year initial term, 14 year renewal
  – Mandatory registration
  – *Wheaton v. Peters* (1834) denied a “common law” right once a book was published.

• **1909** – 28 & 28 = 56 year maximum term.
  – Protection only when published with notice ©.
Fair use and free speech

• Copyright born as tool of censorship
• U.S. commitment to free speech & press required accommodation.
• In Folsom v. Marsh (1841), Justice Story outline what is today called fair use.
• “…the Framers intended copyright itself to be the engine of free expression”
  • From Harper & Row v. Nation Magazine (1985)
1976 Copyright Act

• Adjusted copyright term to life plus a term of years.
  – International norm
• By 1989, copyright protection was completely automatic
  – No notice or registration required
• Unpublished works fully protected
Steady growth in terms of protection
So what’s new?

• Digital communications poses new challenges
  – Online transmission makes copies
  – Speed, quality and reach
  – The irony of 1989
© is now part of everything we do.

– When we teach online, use online resources, or have an online component in a traditional course

– Ownership is now harder to disentangle
  • Join authors more frequent

– Fair use more important.
  • Adaptable to new technologies