

## THOUGHTS ON COPYRIGHT, ADJUNCTS, AND GRADUATE EDUCATION

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My remarks touched on three areas: the problem of copyright as it affects non-tenure track faculty (adjuncts, lecturers, etc.); the coverage of copyright in graduate history education; and the economic problem of copyright. My remarks had the effect of raising lots of problems, without offering any solutions.

Non-tenure track faculty have been the majority of college faculty for some time, and their use continues to increase. Although most of the concern about this issue has been on the low pay and lack of benefits, something that has gone unaddressed is the intellectual property rights of adjuncts. As a matter of custom and contract, tenured faculty own the IP they create, both in the classroom and outside. However, it has not been addressed whether or not adjuncts own either the courses they create or any research they might produce with institutional resources.

Adjuncts are also relatively powerless against violations of their intellectual property rights. Although there are laws in place that theoretically protect them, the average cost to litigate an IP case is \$250,000, many times the annual salary of a non-tenure track faculty member. Until this imbalance in economic power is addressed, additional laws or policies cannot help preserve the IP rights of adjunct faculty from potential abuse.

Graduate education in history does touch on copyright, but only when it comes to not violating other people's rights; this generally boils down to the commandment 'thou shalt not plagiarize.' Graduate education in history does not address what to do when your own rights are violated, how to deal with publishers, or the complex copyright issues surrounding fair use in the classroom. This is not surprising: history faculty are not lawyers or librarians, and may not be aware of these issues or may not know how to address them. However, IP rights should be a part of every history graduate program.

The copyright problem in history (and other academic fields) arises out of a mismatch in economic incentives. Obviously, as consumers of research, faculty have an incentive to make that research available as cheaply as possible. However, they also have an incentive to make it cheaper in their role as producers. Faculty are the producers of research, but in most cases they receive little or no direct economic compensation for their labor (for presentations and articles, none; for

books, a rapidly decreasing little.) Rather, their compensation comes indirectly in the form of renown: praise for their work by their colleagues, which can lead to tenure, promotion, raises, and positions at better universities. This means that faculty have an incentive to make their work spread as widely as possible, and have no direct incentive to care about its illegal spread.

This creates an economy in which there is a single product (research), that is produced and consumed by the same people (faculty), so that everyone has an incentive to make the product available as cheaply as possible- essentially, the perfect economic situation to encourage theft.

The problem is that research still has to be edited, marketed, etc. Historically, economic situations like this one are handled by the state, which taxes everyone to maintain services that everyone uses. This essentially was the case in academic publishing, in which universities subsidized the operation of presses. With subsidies decreasing or disappearing, and the Internet making theft of IP easier than ever, presses are caught in the middle.

The solution to this problem is not obvious. In the sciences, it has been handled by charging faculty to publish, but that seems unlikely in the humanities. It may be necessary for groups like the AHA to step in to subsidize publication.