

Caution - this could get expensive!

Danger of legal violations on the internet

Dear Students and Colleagues,

You are on the go and watching the live stream of a TV show on your mobile, tablet or notebook. Suddenly a still image appears with the message that the live stream will be continued in a moment. In news broadcasts parts of sports reporting are cut out, especially when it comes to football coverage. What's up?

Public and private broadcasters use third-party content and are very careful to ensure that they have all the necessary use and re-broadcast rights. When this is not the case, the affected parts of the transmission have to be blacked out - even if they are commercials.

Copyright is not always clear cut, but it affects us all. That applies both to the university as a whole and to each one of us individually.

Recently, the Bauhaus-Universität Weimer has been confronted with an increase in legal warnings related to copyright infringement - of course, the warnings come with a price tag attached if they are warranted. Unfortunately, they often are. There are also claims for damages.

Frequently, these claims relate to photos or maps used on the internet without the permission of the author or publishing house. All it takes is downloading a beautiful photo without permission onto an UniServer. If it is accessible to the public, this is already a copyright infringement. A similar situation arises when photos from a legally acquired book are scanned and made accessible on the web. Lawyers and courts like to speak of a "fictitious license fee". If the right to use a photo on the internet can be acquired for EUR 100, for instance, damages can be demanded in that amount. Damages can also total to many times the actual licensing fee. If the name of the author is omitted, a "penalty" of 100% may be added.

Showing photographs of persons who have not consented to be photographed or have their photos published can also be expensive. In this case, it is not the copyright of the photographer that is being infringed, but the privacy rights of the person depicted.

Copyright also applies to texts - and not only scientific and artistic texts but also unspectacular texts, like general terms and conditions. The question is: Do you know whether and in which channels your works have been published, either in whole or in part? Are you sure that you have all the rights you need for the content which is not yours in your work that you use in publications for your professorship? Can you control whether your partners on social networks are just as careful with data as you are?

In a scientific work it is impossible to do without references, quotations or limited use of content "to a small extent". The author of a paper thus proceeds according to sound scholarly practice by citing every source. The work is initially only accessible to a small group of persons (adviser, graders, committee). When publishing on a generally accessible platform, however, the question of the necessary rights and the scope of the cited content has to be re-examined - especially for excellent work that has been recognised as such and subsequently presented to a broader public. At the Bauhaus-Universität Weimer, we use the OPuS platform (Online Publication System), a service that facilitates the publication of (scholarly) texts on the internet.

On this platform, each author is personally responsible for ensuring that no copyrights of third parties are infringed upon with such online publication.

Copyright or even privacy rights are often perceived as a burden. One more hurdle! And one more person whose permission I need to get! Please bear in mind that these rights are also there for protection. You, yourself, may not want to be visible in a photo on the internet. You want to put your artistic work on the market and thus generate revenue. Securing rights prevents others from violating your legitimate interests.

For this reason, too, the Bauhaus-Universität Weimer attaches great importance to compliance with applicable law. If the university is confronted with claims resulting from infringement of the described rights, it cannot simply pay the damages and close the file on the case. The legal department is obliged to take recourse to the people who cause such problems. This, of course, is done within the framework the current liability law - but it is better to avoid the damage in the first place than to quibble about how to sort it out after the fact.

At this point, we'd like to call attention to a long-awaited legislative decision. § 52 a) of the Copyright Act was extended by 2 years (until 31 December 2014) shortly before the end of 2012. This clause allows for the limited distribution (password-protected access only!) of small excerpts from copyright-protected works without a license for the purpose of research and education if the prerequisites set out in the act are met. However, remuneration for this is payable to the respective collecting society (VG Wort, VG Bild-Kunst, etc.). The "electronic semester collection" (reserved readings), which can be offered in cooperation with the library through the university's learning platform, is based on this regulation.

The signatories of this memorandum will be happy to assist you with any of these legal and practical questions. Since the infringement of data protection regulations can also create significant difficulties, the university's data protection officer also offers his support.

Kind regards,

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