

Owning and Using Scholarship: An IP Handbook for Teachers and Researchers

Kevin L. Smith

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Kevin L. Smith, former director of copyright and scholarly communication at Duke University and now Dean of Libraries at the University of Kansas, has written a robust and practical guide to intellectual property, with special attention given to the issues faced by researchers and teachers.

The book begins with a concise and useful background on the evolution of copyright to the present and continues with a detailed but instructive discourse on the digital revolution and the results that its ongoing aftershocks have wrought in the scholarly community. In chapter 2, Smith offers both a clear explanation of intellectual property as “the general category of intangible creations protected by copyright, patent, or trademark rules” (p. 25) and an overview of the specific legal justifications and structures that govern copyright, patents, trademarks, and trade secrets. Because the primary audience for his book is the scholarly community, the remainder of the text centers on issues of copyright with examples drawn from the most common activities of scholars: publishing, teaching, and creative outputs. Smith reminds the reader that copyright only protects the expression of an idea and not the idea itself, pointing out that “copyright infringement is the unauthorized use of the work of another . . . while plagiarism is the unacknowledged use of another’s work” (p. 28).

Authors, under current copyright law, have automatic protection for fixed works, but Smith points out that complications can easily arise around issues of joint authorship and work for hire. In chapter 3, he explores the legal and academic ramifications of these issues at their intersection of teaching and research pursuits and university intellectual property policies. Here, as throughout the rest of the book, practical examples are highlighted through sidebars that give readers a focused distillation of the best legal wisdom on particular issues of use.

As a lawyer, scholar, and librarian, Smith is well aware that scholars no longer function under an information economy of scarcity but rather sift through a mass of easily accessible material for the best materials with the added burden “of knowing just what one can use and which uses are permitted under copyright law or based on the license agreement that permits access” (p. 8). Chapter 4 is where Smith begins to unpack the issues attending use of copyrighted material in the creation of scholarship, offering a five-question list for consideration of use that teachers and researchers will find helpful. Smith also provides guidance for understanding and applying the Technology, Education and Copyright Harmonization (TEACH) Act and the many rules and exceptions that arise out of its governance of transmissions through online systems. The chapter’s coverage of fair use is comprehensive and Smith’s explication of the four factors for fair use is well worth noting.

Chapter 5 offers a brief history of scholarly communication and addresses the disruption in traditional publishing models brought about by digital technologies. Smith offers an extended discussion of the various types of open access (OA) scholarship and direct web publication. He details the promises and limitations of direct publications options: overlay journals, scholarly blogs, and digital scholarship projects. Here the author is on familiar ground as the former author of the *Scholarly Communications@Duke* blog and a current writer and co-founder for *IO: In the Open*, a scholarly blog covering the changes in scholarship and scholarly publishing. Chapters 6 and 7 deal with the nuance of licensing, technological protection measures, and issues of intellectual property in a digital world with increasingly porous boundaries.

Scholars and university administrators are tasked with producing, managing, using, and owning intellectual property in a borderless and rapidly changing information ecology. The need to understand how to

ethically and dynamically approach new and shifting forms of intellectual property is more important than ever. Kevin L. Smith's *Owning and Using Scholarship: An IP Handbook for Teachers and Researchers* is just the sort of book that scholars can rely on to ensure they are up to the challenge.