Maker Spaces in Libraries: Legal Considerations

Makerspaces in Libraries: Legal Issues
An Infopeople Webinar
Tuesday, July 22, 2014

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Legal Disclaimer
Legal information
Not legal advice!

Protecting Libraries and Users
Copyright, Patent, Trademark
Let users take responsibility
Guide users to resources

Policies: 3D Printer et al.
Free speech, rules of conduct, guns, privacy,
disability access

Legal Docs
Permissions, Liability, Permits and Partnerships

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Maker Spaces in Libraries: Legal Considerations

• Poll 1

Will 3D printers be used to infringe copyright, trademark and patents?

Wrong question.

Emphatic Yes.

Right question:
Whose problem will it be?

Protect the library
Copyright, Patent, Trademark

Is a library legally responsible when users make copies of someone else’s stuff?

• Copyright – expression (songs, videos, stories)
• Patent – applied ideas (inventions)
• Trademark – words or design to identify source
• Trade secret – secrets (can’t accidentally infringe)

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Copyright: Library protected if "unsupervised" use

Notice: The copyright law of the United States (Title 17, U.S. Code) governs the making of photocopies or other reproductions of copyrighted material. The person using this equipment is liable for any infringement we have experience …

and the law notice on equipment

Put notice on all reproducing equipment

Notice: The copyright law of the United States (Title 17, U.S. Code) governs the making of copies or other reproductions of copyrighted material. The person using this equipment is liable for any infringement.

Uses push “print” “copy” “replicate”

Tip: Put notice on old style replicators: scanners, computers ...

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Reference for you: the law

17 U.S.C. § 108(f) Nothing in this section—(1) shall be construed to impose liability for copyright infringement upon a library or archives or its employees for the unsupervised use of reproducing equipment located on its premises: Provided, That such equipment displays a notice that the making of a copy may be subject to the copyright law

Recommendation:
Users push buttons to make copies

User uploads to library spaces

User uploads to library spaces

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Law offers SAFE HARBOR to Library if:

“user generated content” Register an agent with Copyright Office (one time filing)
Put notice on site
*agent contact info
*take-down policy

17 U.S.C. § 512
See also http://chillingeffects.org

Check to see if your institution already registered. If not, register.

http://www.copyright.gov/onlinesp/list/a_agents.html

SAMPLE NOTICE
Copyright agent, procedures are readily findable on your site
REMEMBER, USER UPLOADS CONTENT

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Protect the Library user creations

- don’t “actively induce infringement”
- check carefully before taking user creations to city council
  - make sure original or licensed
- check really carefully before selling user creations in library store


Largest site for user shared 3D designs
Take-down notices


User Thingiverse Accounts

MAKERBOT/THINGIVERSE CONTENT
- no commercial use
- no copying/modifying content
- no stealing code

USER CONTENT
- gives Makerbot permission
- suggests creative commons
- disputes are between users
- “bad” stuff may be removed and action taken against
  - illegal, pornographic, threatening, abusive, hateful, obscene, and commercially exploitative material
- user should backup content

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Copyright Remixes

enormous headache for unauthorized remixes
especially if commercial use or potential market harm


Changes in the Future?

Disney decides to 'Let It Go' when it comes to copyright infringement

http://www.insidecounsel.com/2014/05/23/disney-decides-to-let-it-go-when-it-comes-to-copyright/

Your voice? Congressional Maker Caucus


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Resources for library user

What if someone takes my idea?
How much of this song can I use?

Maker info on:
• Copyright
• Patent
• Trademark

http://clemakerhub.org/online-resources/


NOLO: Books and website

Nondisclosure Agreement for Inventors

user ideas in makerlabs are not protected without effort!

http://www.nolo.com/legal-encyclopedia/patent-copyright-trademark

Patents in 3D

WARNINGS:
INDIPENDENTLY CREATED
does not eliminate liability
ITEM MAY ALSO HAVE
COPYRIGHT
original creative expression
apart from useful article
lifetime plus 70 years


What's the deal with copyright and 3D printing / Michael Weinberg, Public Knowledge (2013)? https://www.publicknowledge.org/issues/3d-printing

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Licensed brands now MakerBot store
http://www.makerbot.com/blog/tag/licensed-brand/

Using trademarks
Test:
Is a consumer likely to be confused?
*ok to put MAKE magazine on table
*ok to license mini Maker Faire
http://makerfaire.com/mini/guidelines/

More trademarks
TechShop chain of for-profit spaces offering public access to high-end manufacturing equipment – membership fees
FabLabs, inspired by MIT, have core set of tools including lasercutter, vinyl cutter, space requirements 1000-2000 sq ft ...
http://makezine.com/2013/05/22/the-difference-between-hackerspaces-makerspaces-techshops-and-fablabs/
Choosing your own name

Check to see if already trademarked
Do your own knockout search
Attorney / professional search once you choose a name

Makerspace

“makerspace” is generic community centers, for-profit, nonprofit, schools, libraries ...

... but read Makerspace playbook before using their logos

• Poll 2

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Makerspace Policies

Use existing policies to FEND off lawsuits

Free Speech
Equal treatment
Notice to users
Due process (appeals)

First Amendment and govt libraries

CONTENT NEUTRAL
- Too loud (may enforce)
- Not bad words (trickier)
- Ok to ask for civility
- Check with lawyer before removing someone for bad language


3D Printing Policies

- American Library Association is collecting policies and working on recommendations

- Remember First Amendment
  - Don’t prohibit “inappropriate for library environment”
  - Do prohibit “illegal”
  - Uphold agreement with 3D printer company (e.g. no guns)

3D Printing and Guns in California


June 25, 2014 – defeated out of Assembly public safety committee, referred to Appropriations

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Policies: Children and Privacy

Look at library’s policy
If collecting personal information online (e.g. for badges)
use best security practices

LAW only requires commercial users to get parental consent
California Civil Code § 3344 parental consent for commercial use name, voice, photograph .. under 18
Federal Children’s Online Privacy Protection Act (COPPA)
commercial use .. Under 13


California
New Guidance on Privacy Policies

Aimed at commercial sector but demonstrates best practices


Medical Policies

Time to review and train staff on local policy
Band aids?
Defibrillators?

make sure everyone is on the same page

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Disability Access

http://www.ada.gov/2010_regs.htm

Infopeople Webinar Feb. 16, 2011 ADA Update: Revised Regulations for Disability Accommodations for the Public

Stronger obligations for government

200+ settlements with localities in all 50 states

http://www.ada.gov/civicac.htm

Legal Docs: PERMISSIONS and WAIVERS

- Safety certifications (all ages)
- Permissions for minors
- Examples in resources handout

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Legal Docs: PERMITS

MAKING Interviews MakeIt Labs’ Adam and Joe About Shutdown

If renting or building new space, adding laser cutters etc., check with municipal inspectors.

Legal Docs: PARTNERSHIPS

- Write memorandum of understanding
- Short timeframe (try six months)
- Example: TekVenture (501c3) and Allen County Public Library (handout) – Insurance, clear roles
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Legal Docs: Liability and Insurance

- Check your library’s liability waiver forms
- Compare to samples in Resources handout
- Insurance – lots of online discussion; read and call your agent

“Product liability” murkier than traditional production Nora Freeman Engstron, 3-D Printing and Product Liability: Identifying the Obstacles (2013)

Recap: Protecting Libraries and Users

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Questions?

Comments?
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