

Testimony of Brian Nielsen
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Before
U.S. Register of Copyrights
Public Hearing on Distance Education and Licensing
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My name is Brian Nielsen, and I work at Northwestern University as Manager of Learning Technologies, in the University's computing center. I've been asked to testify by colleagues I know around the CIC, the Committee on Institutional Cooperation. The member institutions of the Committee on Institutional Cooperation have been engaged in inter-university collaboration since the organization's inception in 1958. Comprising 12 major teaching and research universities, the CIC includes the member universities of the Big Ten Athletic Conference and the University of Chicago.

Combining the efforts of both public and private institutions, our universities have found that delivering information and courses to students across the consortium results in enhanced educational opportunities and experiences. Such efforts are critical in maximizing the use of public monies for education. However, these efforts cannot flourish and reach their potential for dramatically improving higher education if overly restrictive legislation prevents the transmission of critical information over university networks for the purposes of distance education.

For purposes of illustration, let me describe how a typical course is delivered. Faculty members from one or several CIC universities identify the curriculum for a particular course. Students registering for the course may be both "on campus" residential students, and "off campus" distance learning students. That is, because a course is offered on the WWW or other Internet technology does not mean that students are always connecting from some remote site. They may be in a dorm room on the same campus that the course is being developed and delivered. The materials for the course are placed on a campus server, and the materials may include journal articles from resources licensed on the university campus, web links to related information sites, book chapters, and similar resources.

At my institution Northwestern University, as in most university environments, we provide a secure network infrastructure that protects both the privacy of our student, faculty, and staff users, and our investment in information content. The campus network servers are "protected" when necessary from the Internet at large with authorization, authentication, and security systems that restrict access to network resources to registered, authorized campus users. While many university resources are made available to the general Internet user as a public service, many course materials, registration data, financial information, personnel files, and other restricted data are protected. Students who may use our resources from off campus come in through either our secure modem pool or via a "proxy server" which requires that they have a valid individual university account and secure password when logging onto a course site. Further, at Northwestern we have the ability through the technology we've developed to restrict access to resources by specific class enrollments, and have successfully been working with the delivery of high-quality video on demand to specific courses with the cooperation of the video publisher.

Our universities are responsible consumers of information resources. We seek to pay royalties to publishers on materials which are used in circumstances that fall outside of fair use. Our intent in delivering courses through the web is not to support illegal distribution of software or information resources. The purpose is to bring education and information to our legitimate students and faculty wherever they may be – regardless of geographic or time barriers.

In considering revisions to the copyright act, section 110.2, we encourage the committee to consider the following:

- Use or delivery of information should not be restricted based on geography. In delivering distance education courses, we make no distinction between the student in a dorm room a block away from the server and student accessing course materials from New York, Los Angeles, or Tokyo where he may be away on field study. Increasingly, distance education is used to reach both the residential, traditional student, and the distance learner.
- Our universities invest millions of dollars in software, networks, and security technology. We provide significant measures to protect these resources and investments.
- Faculty developing courses are confused by section 110.2, and in the absence of clear legislation, they often err on the side of simply not including information that, in fact, would be a legitimate use of materials. Distinctions based on outdated technology and dramatic vs. non-dramatic works, for example, are often incomprehensible in today's environment.
- We encourage a balanced viewpoint that reasonably secures the rights of authors and creators, encourages publishers to enter the digital marketplace, provides educational institutions the rights to deliver course content and information resources without restrictions based on geography or technology, and supports robust distance learning programs for all Americans.

Finally, if you or your children enroll in a course at Northwestern through distance learning, do you want your course content restricted because of the method in which you'll receive instruction? Wouldn't you expect to receive the same support and information resources delivered to the students on our Evanston campus? Sound educational principles suggest that distance education students not be relegated to a second-class status.

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