Theft of the Mind

[An Innovative Approach to Plagiarism and Copyright Education]

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Introduction: Theft of the Mind as a Model Curriculum

This chapter presents an innovative approach to plagiarism and copyright education that invites students to explore these challenging topics in a thought-provoking, nonthreatening, and effective manner. The *Theft of the Mind* curriculum is designed to engage learners in the issues of intellectual honesty and integrity "as something that matters to them personally" rather than as matters of compliance or punishment (Brown et al. 2010, 40). The substance of *Theft of the Mind* integrates core information handling competencies from information literacy and scholarly communication but situates each lesson in popular culture or familiar media. The authors prefer the term *information handling* to describe the relationship between student and source material because it is "role-agnostic": it applies equally to students who are handling sources created by others and to students handling the works they produce themselves for eventual use by others. However, for reasons of style and text economy, the somewhat synonymous terms *source use* and *source misuse* are used interchangeably with *information handling* in this chapter. The use of movies and songs, current literature, YouTube videos, news, advertisements, etc. generates interest and demonstrates relevance of the subject matter to real life[1] while also providing a safe space in which students can consider intimidating subjects without feeling defensive (Price 2002).

At the heart of *Theft of the Mind* is a comprehensive set of learning outcomes that ask students to contemplate their roles, responsibilities, and choices as they create and disseminate projects and papers throughout the course of their academic careers.[2] The integration of

principles from both information literacy and scholarly communication provides a framework for students to see themselves both as users of other people's work and as creators of new works of potential use to others. The reliance on carefully selected case studies drawn from popular culture and familiar media illuminates the range of real-life questions, predicaments, and conflicts that surround the legal and ethical use of information and culture in the twenty-first century. As students work through each case study or scenario, they explore the various stages within the creative cycle, from assignment or inspiration to completed work of scholarship or culture. In doing so, students consider the choices that authors and creators make in handling source materials (both others' and their own) and what consequences those choices have. In this way, students gain an understanding that the oft-maligned forms of "mind theft"—plagiarism and piracy—are but endpoints on a continuum between source use and misuse. Students come to see that many real-life information handling choices in the Digital Age do not quite line up at either end of the scale. Rather, the authorship choices so familiar to NetGen students—mimicking, satirizing, sampling, blending, mashing up, remixing, and transforming—fall somewhere along the continuum.

The *Theft of the Mind* curriculum was originally conceived as a progressive series of learning experiences that students would complete as part of their university education at both the undergraduate and graduate levels. To that end, a comprehensive set of student learning outcomes was developed based on information literacy and scholarly communication principles. These outcomes were then mapped to student audience level (see Appendix 3.1). Sample lesson plans were also developed to demonstrate the use of popular culture and familiar media as case studies for student exploration and analysis. (For a sample lesson plan, see Appendix 3.2).

In early 2011, the first opportunity to implement the *Theft of the Mind* curriculum arose at Texas A&M University in the form of a credit-bearing, semester-long seminar for incoming freshmen. The proposed course, "Theft of the Mind: Tales of Piracy and Plagiarism from History to Hollywood," was approved by the Associate Provost for Undergraduate Studies and added to the group of carefully selected offerings for the First Year Seminar program in the fall of 2011. After quickly enrolling its maximum of twenty freshmen, the course proceeded according to plan. This first implementation of *Theft of the Mind* provided an opportunity to test the curriculum design and to gain feedback for improving it.

The ultimate aim of this chapter is to describe the rationale and processes for developing the model curriculum for *Theft of the Mind* and then implementing appropriate elements of it within the context

of a freshman seminar at Texas A&M. The materials presented in this chapter are intended as a starting point for discourse and deliberation about transforming plagiarism and copyright education on our campuses into a more meaningful, relevant, and enjoyable element of the college experience. The authors have shared the learning outcomes and some sample lessons for this curriculum in the hopes that readers will implement, adapt, assess, and further enhance the materials in their own settings, sharing alike their own results and insights.

Background: The Case for a New Approach to Plagiarism and Copyright Education

The phrase "Theft of the Mind" is a translation of the ancient Hebrew expression *gneivas da'as,* a term historically used to describe a form of stealing through deception (Fountain and Fitzgerald 2008). Rabbi Jeremy Wieder (2012), when speaking on the topic of cheating at Yeshiva University, translated the phrase as "attempting, through creating a false impression, to ingratiate one's self with someone else, presumably in the hope of gaining some favor or some future benefit" (para. 3). In applying the concept at an institution of higher learning, Rabbi Wieder explained that *gneivas da'as* can be simply explained to mean "when we take work that is not ours and we submit it in our name" (para. 14). The authors of this chapter have interpreted this explanation to embody and apply to both plagiarism and copyright infringement. In the former case, the student may gain something (a good grade, respect, additional opportunities) for something she did not create. In the latter, she may gain rewards (monetary, social) for sharing something that is not hers.

Central to the *Theft of the Mind* approach is the principle that this form of stealing is egregious as much for what it takes from the community as for what it takes from the owner. Any gain a "mind thief" achieves through his act of deception (be it monetary, reputational, or strategic) comes at a heavy price for the thief and his community—lost trust and a fractured sense of fairness. It is for this reason that the phrase *Theft of the Mind* was chosen as the name for a university-level plagiarism and copyright education program. *Theft of the Mind* reflects the special expectations placed on students as they take their place in the academy (and, by extension, in society). They are expected to make reasoned and responsible choices in all aspects of their information handling practices. The *Theft of the Mind* approach reflects the view that intellectual honesty and integrity are cornerstone principles of higher education, underpinning the entire teaching, learning, and scholarly enterprise. In the words of one American research university,

the exploration and discovery of ideas, the exchange of findings, and the dissemination of knowledge are pursuits that must be based on a foundation of mutual trust and respect, enveloped in "an atmosphere of confidence and fairness" (University of North Carolina Chapel Hill 2012, para. 2).

Theft of the Mind is innovative because it departs from the generally moralistic, compliance-based forms of plagiarism and copyright education found on many campuses today. Such programs commonly take the form of prevention campaigns that teach students to follow the rules or face serious consequences. Stern messages and rigorously enforced honor codes may be augmented with technological prevention measures (for instance, wide-scale use of plagiarism-detection software or file-sharing monitors). In combination, these compliance-based approaches can be effective in notifying a large percentage of the student population about the consequences they face should they violate the code. But these approaches may not actually *reach* the students and elicit their understanding, as pointed out by college English professor Amy Robillard (2008). In "Situating Plagiarism as a Form of Authorship," she admonishes, "Lectures to students—especially first year students—likely become increasingly draconian, and students likely become increasingly immune to the warnings and threats" (27).

That is not to say that compliance with the law and with standards of ethical conduct is not critical for institutions of higher education today. Indeed, there are now a variety of requirements for integrity and copyright instruction that campuses must fulfill. Legal mandates for campus copyright instruction now come from the Higher Education Opportunity Act of 2008;[3] the Technology, Education, and Copyright Harmonization Act of 2002;[4] and the Digital Millennium Copyright Act of 1998.[5] Additionally, some regional accreditation bodies have added information ethics and law in their instructional framework (Saunders 2007). Additional impetus for training on information ethics and law is also now coming from federal funding agencies such as the National Science Foundation (2009), which requires that grant recipients "provide appropriate training and oversight in the responsible and ethical conduct of research to undergraduate students, graduate students, and postdoctoral researchers participating in the proposed research project."

An element of such agency-required training includes "Publication Practices and Responsible Authorship" and "Data Management"—two categories likely to include issues of copyright and proper attribution of research materials (TAMU 2012a).

But campus reliance solely on compliance-based training is not enough to help students develop the necessary information handling skills to succeed in the increasingly complex society of the twenty-first

century. In the words of Chris Anson (2008), writing in "We Never Wanted to Be Cops," "A 'solution' to plagiarism that focuses primarily on policy, detection, and punishment does nothing to advance our presumed mission, which is education" (140). Indeed, educators concerned with providing a meaningful education that "empowers individuals and prepares them to deal with complexity, diversity, and change" (AAC&U 2012b, para. 1) may find that compliance-based plagiarism and copyright training are antithetical to the core principles of modern education. Such training demands mindless conformity to black-and-white rules rather than spurring critical thinking to address problems in myriad shades of gray. What's more, campus educators may see that compliance-based programs shortchange learners by presenting the complex issues of intellectual honesty and integrity in an overly simplistic, black-and-white manner. With regard to plagiarism, for example, teaching students that they have to cite any source they use unless it is common knowledge ignores the fact that what knowledge is considered common is highly subjective, varying considerably from one discipline or context to the next. With regard to copyright, compliance-based instruction that advises students to always ask the owner's permission before copying and reusing source materials in a paper gives short shrift to legitimate rights and opportunities to share content through fair use, Creative Commons licensing, and leveraging of the public domain.

Educators need look only as far as the campus library, where instructional programs are being developed through the offices of information literacy and scholarly communications. By drawing together core principles from both of these areas of academic librarianship, today's educators can build a framework for engaging students in a deeper understanding of, and appreciation for, intellectual honesty and integrity. *Theft of the Mind* offers one such model for how that framework can be implemented.

Methods: Developing the Curriculum

The impetus to develop an innovative model curriculum for plagiarism and copyright education was born out of a perceived lack of standards in this essential area of student learning. As described below, the first two steps in the curriculum development process (Step 1: Assessing the Need; Step 2: Developing Student Learning Outcomes) were initiated well before there was any expectation concerning implementation. However, when the opportunity to design and deliver a freshman seminar arose, a third step (Step 3: From Outcomes to Lessons) was needed to transform the learning outcomes and approaches into a course syllabus and corresponding lesson plans.

Step 1: Assessing the Need

Drawing on extensive experience in responding to student questions about plagiarism and copyright, the authors began the development of the *Theft of the Mind* curriculum with an analysis of need. Learners' needs were grouped into three primary categories:

1. What constitutes use and misuse, and who decides?
2. What are my information handling choices?
3. What are the costs and consequences of misuse?

The first category embodies student needs for clear definitions of plagiarism and copyright infringement as standards of source misuse, for clear explanations of how these standards are established and by whom, and for a clear understanding of the purpose that each standard serves. Student questions under this category typically include, "What exactly is plagiarism or copyright?" "Why should I care about these issues?" "How do I know if my use or handling of information is OK or not OK?" An important aspect of *Theft of the Mind* is that these questions are addressed not only for the benefit of information users, but also for the benefit of information producers. In doing so, this curriculum covers many aspects of copyright law that might be overlooked in compliance-based instruction, such as the right of copyright owners to transfer their rights to others (e.g., publishers) and the right of owners to reserve some but not all of their copyright rights to allow wider sharing of their works. Other more basic outcomes for plagiarism and copyright education, such as the definition of *intellectual property, common knowledge,* and *public domain,* are also located under this first category.

The second category of student need addresses what information handling choices are OK or not OK. Student questions under this category can essentially be summarized as, "How can I get my desired task done while avoiding plagiarism or infringement?" This category is where the authors place outcomes relating to the "how to" and "which style" aspects of citation. It is also where they place outcomes relating to users' rights under copyright law (e.g., exercising exemptions in the law such as fair use and leveraging public domain materials) and outcomes relating to the effect that contracts, licenses, and institutional policies may have on information handling choices. Finally, outcomes relating to authors' choices in managing their own copyrighted works also fall within this category.

The third category of student need most closely aligns with compliance-based education. The most common student concern under this category is "What happens to me if I plagiarize or infringe?" But the authors also place under this category a few outcomes that cover the costs of plagiarism, infringement, or transferring away one's copyright as borne by the community and by society. This additional

aspect of the cost and consequences question distinguishes *Theft of the Mind* from many other instructional approaches.

Step 2: Developing Student Learning Outcomes

Outcomes from Information Literacy

From information literacy comes the recognition that plagiarism and copyright are equally critical concepts for students of higher education to understand, that these concepts are interrelated and sometimes overlapping, and that both fit within the larger context of social issues surrounding information use. These principles are embodied within Standard 5 of the *Information Literacy Competency Standards for Higher Education* developed by the Association of College and Research Libraries and endorsed by other higher education groups (ACRL 2000).

The plagiarism- and copyrighted-related outcomes derived from ACRL Standard 5 (and presented in Table 3.1) provide much of the framework needed for *Theft of the Mind*. Indicator 1, Outcome d, under Standard 5 ("Demonstrates an understanding of intellectual property, copyright, and fair use of copyrighted material") is sufficiently broad to encompass all of the copyright-related outcomes needed, as well the few trademark and patent outcomes included in the curriculum. This outcome is so expansive, in fact, that the authors estimated that a semester-long, three-credit course would be needed to fulfill its

Table 3.1

Learning Outcomes from the ACRL (2000) *Information Literacy Standards for Higher Education*, Standard 5, Incorporated into *Theft of the Mind*

Standard 5: The information literate student understands many of the economic, legal, and social issues surrounding the use of information and accesses and uses information ethically and legally.	
Demonstrates an understanding of intellectual property, copyright, and fair use of copyrighted material	Indicator 1, Outcome d
Legally obtains, stores, and disseminates text, data, images, or sounds	Indicator 2, Outcome e
Demonstrates an understanding of what constitutes plagiarism and does not represent work attributable to others as his/her own	Indicator 2, Outcome f
Selects an appropriate documentation style and uses it consistently to cite sources	Indicator 3, Outcome a
Posts permission granted notices, as needed, for copyrighted material	Indicator 3, Outcome b

scope. For this reason, the authors segmented Indicator 1, Outcome d, into numerous related mini-outcomes that could be fulfilled in individual sessions such as the typical one-hour class meeting, a one-shot session of course-related instruction, or a stand-alone workshop. These are the delivery formats most common among academic librarians.

ACRL Indicator 2, Outcome e ("Legally obtains, stores, and disseminates text, data, images, or sounds"), for Standard 5 is scoped to include "legal" forms of information handling, which could include not only copyright, trademarks, and patents but also materials governed by contract or license. This is therefore a particularly important outcome because so much content used and produced in academia is subject to publishers' licensing terms and conditions. Students need to understand that any rights they may have had under copyright law (including fair use) could be eclipsed by restrictions stated in the license.

Two plagiarism-related outcomes under ACRL Standard 5 needed for *Theft of the Mind* are Indicator 2, Outcome f ("Demonstrates an understanding of what constitutes plagiarism and does not represent work attributable to others as his/her own"), and Indicator 3, Outcome a ("Selects an appropriate documentation style and uses it consistently to cite sources"). Somewhat related to these in terms of learning objectives is the last outcome under Standard 5: Indicator 3, Outcome b, which covers the need to acknowledge the copyright status of reprinted work ("Posts permission granted notices, as needed, for copyrighted material").

In sum, the ACRL *Information Literacy Competency Standards for Higher Education* provide a solid framework for teaching students about the information handling choices they may make as they incorporate source materials in their papers and projects. Additionally, Standard 5, Indicator 1, Outcome d, is broad enough to also cover some choices that student authors make as they prepare to disseminate their works for use by others. Yet in their present form, the ACRL standards alone do not fully support students' roles and responsibilities as authors of scholarly works. Considering the highly active and prolific nature of the today's student researchers and creators, this gap seems like a significant oversight. It is therefore important to also draw on the principles of scholarly communication to fulfill the objectives of *Theft of the Mind*.

Outcomes from Scholarly Communication

According to the ACRL (2003), scholarly communication is "the system through which research and other scholarly writings are created, evaluated for quality, disseminated to the scholarly community, and preserved for future use. The system includes both formal means of communication, such as publication in peer-reviewed journals, and

information channels, such as electronic listservs" (para. 1). While many academic libraries have established scholarly communication programs, most of the instruction in these programs has been aimed at faculty, research associates, and graduate students.[6] This unfortunate circumstance means that no student learning outcomes have been formally established in support of scholarly communication principles. The situation is beginning to change, as librarians recognize the importance of reaching this audience not only as experienced producers of digital media to satisfy course assignments, but also as researchers and published authors in their own right. Opining on this very issue in her column, "Engaging Undergraduates in Scholarly Communication," Stephanie Davis-Kahl (2012) writes:

> Undergraduate student awareness of, and engagement with, issues such as open access, public access, creator rights, and the economics of publishing should become part of our mission and vision of undergraduate education so students can become effective advocates for access to their own work, or for access to research that can aid them in becoming informed and critical researchers, consumers, and citizens. (212)

In her column, Davis-Kahl indicates that the information literacy standards are now under review, giving hope that scholarly communication principles may be incorporated into a future revision. For the present, however, the authors chose to draw on the ACRL (2003)

Table 3.2

Learning Outcomes Derived from Principles Supported in "Principles and Strategies for the Reform of Scholarly Communication" (ACRL 2003) and Incorporated into *Theft of the Mind*

Scholarly Communication Defined	Principles Supported
"Scholarly communication is the system through which research and other scholarly writings are created, evaluated for quality, disseminated to the scholarly community, and preserved for future use. The system includes… formal means of communication, such as publication in peer-reviewed journals."	• the broadest possible access to published research and other scholarly writings
	• increased control by scholars and the academy over the system of scholarly publishing
	• open access to scholarship
	• extension of public domain information
	• fair use of copyrighted information for educational and research purposes

white paper "Principles and Strategies for the Reform of Scholarly Communication" for the scholarly communication–related outcomes developed for *Theft of the Mind*. Table 3.2 represents the principles deemed relevant for student scholars.

The complete list of student learning outcomes for *Theft of the Mind*, representing both information literacy and scholarly communication principles, is presented in Appendix 3.1. It will be apparent that these outcomes reflect a range of cognitive levels within Bloom's Taxonomy.[7] This circumstance reflects the authors' expectation that achieving the higher-order cognitive objectives—Application, Analysis, Synthesis, and Evaluation—is essential to internalizing course goals, even at the freshman level. For example, the lower-level outcome "Explain what is meant by 'common knowledge' in the context of citing sources" is necessary so that students will understand that there is an exception to the directive to cite anything that they themselves did not create. This outcome may be fulfilled simply by reciting a generic definition of *common knowledge* as found on a university plagiarism site or on the pages of *Wikipedia:* "Common knowledge is knowledge that is known by everyone or nearly everyone, usually with reference to the community in which the term is used" (*Wikipedia* 2012). Yet the related outcome "Explain why the definition of common knowledge might change from one context to the next" is also essential to fill out the incomplete picture left by the lower-level outcome that established that common knowledge is community-based. The higher-level outcome requires that students think of each course they take, or each discipline they study, as a separate community, each with its own expectations and standards of what needs to be cited. Students can thus come to appreciate that they cannot be complacent in their plagiarism education after completing that initial tutorial in freshman English or reading and accepting the university's honor code during freshman orientation. Rather, they need to sustain an ongoing effort to learn the multiplicity of citation guidelines and style manuals used in each discipline in order to meet professors' expectations and perform well in each course.

Finally, as noted in the key to Appendix 3.1, the authors emphasize that the outcomes devised for *Theft of the Mind* may be applied and adjusted for any level of campus constituent: undergraduate, graduate, and even faculty. The Student Level indicator in the last column of Appendix 3.1 represents only a general recommendation as to when an outcome is best introduced, or reintroduced and refreshed. Some outcomes are recommended for introduction at a particular level in order to satisfy the various mandates and standards for plagiarism and copyright education discussed earlier in this chapter. Others are recommended for a later point of introduction, when students encoun-

ter more sophisticated assignments requiring information handling practices that could put them at legal risk: significant use of licensed source materials, inclusion of existing works into a project or paper, or distributing their works via Web-based open access publishing.

The Orphaned Outcome

Finally, it is important to recognize the one important student learning outcome that did not find representation in either set of library principles. This outcome is essential to NetGen learners who have been copying, remixing, and transforming existing works since early adolescence. For *Theft of the Mind*, this outcome is written as follows: "Explain why the concepts of 'original authorship' and 'uniquely new creation' are changing in the 21st century due to technological innovations, and that laws and standards may lag behind what is possible with technology."

This outcome was not originally considered when the model curriculum was developed, but the need for it quickly arose during the freshman seminar version of *Theft of the Mind* at Texas A&M. Students in this course continually challenged the presumption that an idea, or even a published work, is a unique asset belonging to one person exclusively. In analyzing the movie *The Social Network*, for example, students pondered the likely possibility that, on a campus where social networking apps were a wildly popular part of everyday life, unassociated students at Harvard could have conceived of different online Facebook sites "at pretty much the same time" (Ferguson 2011). In watching the documentary "Everything Is a Remix: Part 3" (Ferguson 2011), students realized that the phenomenon of "multiple discovery," a term introduced in the film to explain similar innovations that arise from different sources at the same time, was not limited to the past (e.g., in the case of Newton's and Leibniz's contemporaneous discovery of calculus, or Bell's and Gray's simultaneous patent applications for the telephone) but occurs continually in their own familiar world of YouTube videos, top forties songs, and smartphone apps.

In essence, the NetGen freshmen at Texas A&M intuitively arrived at the same point as a whole school of scholars working in the field of plagiarism education. Exemplified by Rebecca Moore Howard (1995) in her article, "Plagiarisms, Authorships, and the Academic Death Penalty," these scholars have been challenging the modern notion of "normative autonomous, individual author" (791) for over a decade. Howard's artfully articulated questions about the very meaning of authorship and the possibilities that any work is entirely original are reflected in her "Proposed Policy on Plagiarism," which opens with this statement: "It is perhaps never the case that a writer composes

'original' material, free of any influence. It might be more accurate to think of creativity, of fresh combinations made from existing sources, or fresh implications for existing materials" (789).

Affording today's students the opportunity to explore the meaning of authorship and creativity in the context of plagiarism and copyright validates their authentic experiences, eliciting their confidence and trust in the educational system. But just as importantly, it also equips them to function more effectively in a society in which laws and policy lag behind digital technology and the Internet. It may have been a fortuitous coincidence that the *Theft of the Mind* seminar first ran in fall 2011, as news feeds and comedy shows were paying increasing attention to the recently introduced Stop Online Piracy Act (SOPA) and the PROTECT IP Act (Preventing Real Online Threats to Economic Creativity and Theft of Intellectual Property Act, or PIPA). But there was no more effective teaching tool than seeing daily headlines threatening "Under SOPA, 'Justin Bieber Would Be In Jail'" (Rapoza 2012) to underscore the importance of the lessons students were engaged in as part of *Theft of the Mind*.

Step 3: From Outcomes to Lessons

Transforming learning outcomes into effective and engaging learning experiences is more art than science, and there is no one formula for success. The various factors to consider in designing each lesson include number of sessions with the students, duration of the sessions, amount of homework time available, facilities and resources available, and individual characteristics of the enrolled students (age group, level of study, major discipline selected). In the case of the freshman seminar *Theft of the Mind* at Texas A&M, lessons had to fit within the course parameters: thirteen weekly fifty-minute class meetings and thirteen weekly homework assignments of no more than three hours' duration. Moreover, an additional factor governing lesson design was the requirement that high-impact learning practices be incorporated into all First Year Seminars at Texas A&M. According to the university's Associate Provost for Undergraduate Studies, "High-impact pedagogical practices deepen learning and foster student engagement and thus lead to better outcomes. High-impact practices have been shown to go beyond grade point averages or even degree attainment in increasing undergraduate student success" (TAMU 2012b, para. 1). In the context of freshman seminars, high-impact learning involves, among other things, "critical inquiry … information literacy, collaborative learning, and other skills that develop students' intellectual and practical competencies" (AAC&U 2012a).[8]

The topics of plagiarism and copyright are natural candidates for high-impact learning. They represent both practical concerns and

philosophical considerations that have direct relevance to student life. They implicitly encompass many areas of gray, requiring students to wrestle with opposing viewpoints and critically evaluate multiple possibilities. And because plagiarism and copyright exist, in part, to protect creative and commercially valuable media, these topics lend themselves to a rich variety of newsworthy and media-driven examples to pique student interest. Examples of lessons integrating high-impact learning practices into *Theft of the Mind* follow.

Sample Lesson 1

The lesson "Fair Use or Foul?" was devised to guide students through the critical-thinking process necessary to determine whether a given use of copyrighted material could qualify as a fair use. In this lesson, students analyzed a real-life case of alleged copyright infringement and determined whether the defendant's use met the standards of fair use based on a Four Factors evaluation. (See Appendix 3.2 for the corresponding lesson plan.) The infringer in question was a presidential candidate running in the primaries for the 2012 election; the infringing use was a political ad he produced using ABC News footage from the 1980 Olympics. In the ad, the candidate touts his record as a champion and hero by juxtaposing his own likeness against images of the "Miracle on Ice"—the US hockey team scoring its final upset goal over Russia. After learning about fair use and the Four Factors Test in class, students completed a homework assignment to view the political ad for themselves, read a newspaper article about the alleged infringement, and then perform a fair use analysis of the TV ad using a popular Four Factors evaluation tool (the Fair Use Checklist produced by Columbia University Libraries [2008]). The following class session was dedicated to a presentation of the students' fair use findings and a discussion and debate about the case.

This lesson elicited a high level of engagement and an impressive degree of critical thinking from the students. The results of the student's individual fair use evaluations are shown in bar graph form in Figure 3.1. This data shows that the majority of students determined the use was not fair because the politician was using the Olympics footage for personal gain when he had the funds necessary to license the video from ABC. But opposing views on this case made for a very dynamic, interesting and insightful discussion. For example, analysis of the first factor (purpose of the use) centered on the notions of "profit" and "societal good." Students who opposed a fair use finding for the politician believed that the candidate could profit from the Olympics footage by improving his image as a hero and fighter against an "axis of evil" (the former Soviet Union). They further reasoned that the

reputational gain achieved from the ad could also translate into monetary profit through improved fundraising and even a hefty executive salary should the candidate's election bid go his way. Those students who argued in favor of fair use for this political ad asserted that running for, and serving as, president of the United States is a public service and that any political ad in aid of a candidate's election serves the public good. With regard to the third fair use factor (amount of the work used and its substantiality), the fair use proponents pointed to the relatively short duration of the clip used. The fair use opponents, however, emphasized that the brief clip captured the moment of victory, thereby representing the heart of the work. Finally, with regard to the fourth fair use factor (effect on the market), the fair use opponents felt that the politician had surely raised enough funds to pay fees to license the clip from ABC. The fair use proponents felt the candidate should not have to pay to use the footage.

Figure 3.1

Graph showing the results of a fair use analysis performed by students in the freshman seminar *Theft of the Mind at Texas* A&M in fall 2011. Fourteen students analyzed a real-life case of alleged copyright infringement and then evaluated the defendant's claim of fair use using the Four Factors Test required by US copyright law.
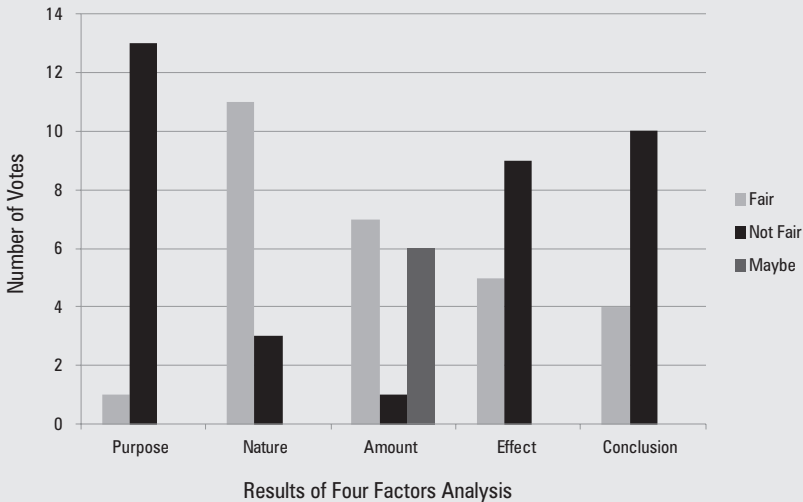
The points and counterpoints made by the students in the in-class discussion of "Fair Use or Foul?" closely resembled the kind of debates that commonly surround fair use cases. In this way, the intrinsic uncertainties surrounding fair use in real life were made real to the students, exposing them to the complexities involved in applying copyright law to everyday decision making. Additionally, students reflected on the

fact that their individual political leanings could have affected their views on the fairness of the candidate's use of copyrighted material in his TV ad. This insight led to some speculation about whether the judges who rule on fair use cases in federal court can be completely objective in their decision making.

Sample Lesson 2

High-impact learning in the *Theft of the Mind* seminar was also observed during a culminating activity that took place after the copyright and plagiarism modules were concluded. In this lesson, students critiqued a popular academic integrity video tutorial—"The Dr. Dhil Show"—that contains several factual mistakes concerning the definition of plagiarism (Mezzocchi 2004). By identifying several of these errors in the video tutorial and validating their findings with other members of the class, students reinforced their newly acquired understanding of source misappropriation. They also came to recognize that not all sources of plagiarism education are accurate and complete, regardless of how popular they are on the Internet.

Because it closely parodies a familiar TV talk show, the plagiarism video is appealing to students for its humor and irony. In the video, Tania—an attractive college student with a "plagiarism problem"—is lured onto the talk show and forced to face up to her best friend, Jim, who claims his life has been ruined because of all the things Tania "took from him and made her own." The video cuts to flashback scenes depicting a series of Tania's "thefts": an essay written by Jim but copied and turned in under Tania's name, Tania's removal of several mechanical parts from Jim's car without permission, and Tania's "borrowing" of Jim's original story about cutting his face while shaving (while Jim laments that the story couldn't possibly be hers because girls don't shave!). Students were asked to reflect on each act of alleged plagiarism shown in the video and identify which ones are actual examples of source misappropriation. Most of the students in *Theft of the Mind* completed this part of the assignment perfectly.

The final component of the "The Dr. Dhil Show" assignment was more challenging, testing whether students could distinguish between an act of plagiarism and an act of copyright infringement. The students were asked to identify any and all forms of "mind theft" that occurred in the concluding scene of the Dr. Dhil video. In this scene, best friends Tania and Jim had reconciled their differences and had shared a pledge to fight the scourge of plagiarism together. They sealed their vow with the performance of a jointly created song called "Cite the Source" from their newly recorded CD *Plagiaristic Contemplation*. As Tania and Jim break into the chorus, a third friend objects to

the performance as blatant plagiarism because it uses the tune of the popular song "We Are the World." Jim and Tanya quickly remedy their error by citing the source of the tune.

Only a couple of the freshmen students recognized that Jim and Tanya had infringed the copyright in the tune for "We Are the World" and that citing the source of the song would not be sufficient. Yet because they did successfully meet the challenge, they were most eager to share their understanding and insight with their fellow students. They provided a highly effective explanation of Jim and Tania's act of "mind theft," and even suggested that perhaps the class perform a Four Factors evaluation to see if they did not really need permission to adapt and perform someone else's song for their own purpose. The experience of leading the classroom discussion around "Dr. Dhil" was as impactful for the students who achieved the outcome as for the rest of the students, who improved their own understanding by learning from their peers.

Assessment of the Curriculum

As a First Year Seminar at Texas A&M University in fall 2011, "Theft of the Mind: Tales of Piracy and Plagiarism from History to Holly-wood" proved to be an enjoyable, meaningful, and positive learning experience that academic administrators have recognized as having impact on student success. Evidence that students fulfilled the learning objectives for the course comes from the students' individual perfor-mances, with 95 percent passing the class. The majority of students (90 percent) achieved a final grade of B or higher. The final grade repre-sented ten individual homework assignments, nine in-class activities, and a group project requiring a minimum of twelve hours of effort per student.

Additionally, an end-of-semester evaluation administrated by the Provost's office indicated that the majority of students in the course expressed satisfaction with their course experience and felt they ben-efited from high-impact learning practices by improving critical think-ing, dialoguing across differences, and working collaboratively on their group projects. Most students named specific activities of particular interest and benefit in their evaluations of the course, including these:

- using the Fair Use Checklist to perform Four Factor evaluations on real-life cases
- playing different roles in a "You Be the Judge"–style scenario involving a fictionalized case of plagiarism and copyright in-fringement on campus
- evaluating whether the trademark on Hormel's canned meat product was violated in advertisements for computer spam-pro-

tection programs and in scenes from *Muppet Treasure Island* featuring the hairy porcine muppet named Spam
- deciding whether Facebook founder Mark Zuckerberg infringed the copyright of the Winklevoss twins, as depicted in the movie *The Social Network*

Another qualitative indicator of success for the freshman seminar was the number of learning outcomes fulfilled by the students by semester's end. The course design initially included only a subset of the outcomes listed in Appendix 3.1 because of the experimental nature of the course and uncertainties about student ability and degree of prior knowledge. To the instructor's surprise, however, the students exceeded expectations for engagement, curiosity, and self-directed learning. They asked questions and spurred debate in class and shared links of case studies and examples on the online course site. Most came early to class to chat informally, and a dedicated few lingered after each class session to continue discussion. Since the class ended, students have remained in contact, asking for information about becoming a student member of the Honor Council and asking for a reference for a summer honors scholars program. This evidence about freshman acceptance of the *Theft of the Mind* curriculum has prompted the authors to mark more of the student learning outcomes as suitable for introduction at the lower-division undergraduate level.

Moving beyond implementation as a freshman-year seminar, evidence that the *Theft of the Mind* curriculum has promise for more advanced students comes from numerous sessions developed for honors undergraduates as well as graduate students. Examples of implementations at these levels include sessions on authors' rights and publishing choices delivered in a weekly seminar for the summer scholars undergraduate program, for a graduate-level chemistry ethics course, and at a monthly seminar for veterinary science graduate students. Regularly scheduled clinics on fair use, Creative Commons licensing, and negotiating with publishers have become well-attended offerings for students writing their theses and dissertations (as well as their faculty advisors). What's more, the curriculum for *Theft of the Mind* is also being adapted for other settings on campus. The United States Electronic Thesis and Dissertation Association (USETDA) has approved elements of the curriculum for adoption in its continuing education certificate program Copyright Essentials for ETD Professionals. Several dozen graduate school professionals and administrators have recently completed the basic course, reflecting the fact that a new approach to plagiarism and copyright education has benefit not only for librarians and the students they serve, but also for other campus professionals who are integrally involved in student writing and publishing.

Conclusion

Theft of the Mind was designed to teach students that making good choices in information handling is important not only for their own success and well-being, but for the progress and health of their communities and for society as a whole. By affording students the opportunity to explore, discuss, and gain some comfort level with the complexities of authorship, attribution, and copyright in the Digital Age, it is hoped that they will ultimately leave campus better prepared to enter the workforce and contribute to society as effective consumers of, and contributors to, the body of human knowledge and culture.

Initial successes of the *Theft of the Mind* curriculum make evident that the subjects of plagiarism and copyright can be highly engaging and interesting to NetGen learners—young adults who have grown up in an era of information superabundance, saturated in media and adept at interacting with it in new and transformative ways. By drawing on core principles from both information literacy and scholarly communication, the *Theft of the Mind* approach invites students to more deeply understand their roles, responsibilities, *and* opportunities as both users and creators of information. Teaching with situations familiar to and preferred by the students transforms potentially intimidating or unpleasant subject matter into something far more engaging, interesting, and relevant. In this way, students gain genuine confidence and comfort in navigating the complexity of legal and ethical issues they will encounter on campus and beyond. These important competencies will help them fully participate as digital citizens within the fast-changing cultural, legal, and ethical contours of the twenty-first century.

APPENDIX 3.1

Theft of the Mind Student Learning Outcomes

Key
Not all learning outcomes on this master list are intended for use at all levels or in all contexts.
The Student Learning Outcomes in column one have been sorted according to the Student Need category, but otherwise reflect no particular order.
The Student Need column refers to the three questions students want to answer, as outlined in the section Step 1: Assessing the Need in this chapter: 1. What constitutes use and misuse, and who decides? 2. What are my information handling choices? 3. What are the costs and consequences of misuse?
The Student Role column reflects whether the outcome is designed for the student as a user of source materials produced by others; or as an author of source materials to be used by others. This distinction is discussed in the introduction to the chapter.
The column Map to ACRL IL Std. 5 refers to the outcomes included in Standard Five, as discussed in the section Outcomes from Information Literacy in this chapter.
The column Map to ACRL SC Principles column refers to the statement "Principles and Strategies for the Reform of Scholarly Communication" (ACRL 2003), as discussed in the section Outcomes from Scholarly Communication in this chapter.
The Student Level column reflects a general recommendation as to when the outcome is best introduced (or reintroduced and refreshed), but certainly will vary according to instructional goals and student needs. U = lower-division undergraduate; G = upper-division undergraduate or graduate student

Student Learning Outcome	Student Need	Student Role	Map to ACRL IL Std. 5	Map to ACRL SC Principles	Student Level
Explain the meaning and purpose of copyrights, patents, and trademarks.	use and misuse defined	user author	Indicator 1, Outcome d		U
Given examples of each, distinguish between a fact of nature, an original idea, and a protectable expression or invention.	use and misuse defined	user author	Indicator 1, Outcome d		U
Summarize the university's definition of plagiarism, as posted at <url>.	use and misuse defined	user author	Indicator 2, Outcome f		U
Identify one statement in the university's definition of plagiarism that you do not fully understand, and name at least one office/unit on campus that can clarify what you don't understand.	use and misuse defined	user	Indicator 2, Outcome f		U
Explain what is meant by "common knowledge" in the context of citing sources.	use and misuse defined	user	Indicator 2, Outcome f		U
Explain why the definition of common knowledge might change from one class to the next.	use and misuse defined	user	Indicator 2, Outcome f		U
Summarize the university's copyright policy, as posted at <url>.	use and misuse defined	user author	Indicator 1, Outcome d Indicator 2, Outcome e		U, G
List the "bundle of rights" that copyright owners have to control the use of their works.	use and misuse defined	user author	Indicator 1, Outcome d	Open access to scholarship	U, G

Student Learning Outcome	Student Need	Student Role	Map to ACRL IL Std. 5	Map to ACRL SC Principles	Student Level
List three categories of expression that are in the public domain and why they are not protected by copyright.	use and misuse defined	user author	Indicator 1, Outcome d Indicator 2, Outcome e	Extension of public domain information	U
List the forms of intellectual property that are eligible for federal legal protection in the United States.	use and misuse defined	user author	Indicator 1, Outcome d		U, G
Give examples of forms of expression that are not eligible for copyright protection but may be protected by trademark.	use and misuse defined	user	Indicator 1, Outcome d		U, G
Give examples of useful articles that are not eligible for copyright protection but may be protected by a patent.	use and misuse defined	user	Indicator 1, Outcome d		U, G
Identify a credible source on campus for guidance on plagiarism avoidance.	use and misuse defined	user	Indicator 2, Outcome f		U, G
Identify a credible source on campus for guidance on infringement avoidance.	use and misuse defined	user	Indicator 2, Outcome e		U, G
Explain why the concepts of "original authorship" and "uniquely new creation" are changing in the 21st century due to technological innovations, and that laws and standards may lag behind what is possible with technology.	use and misuse defined	user	Orphaned Outcome! (See the section The Orphaned Outcome in the chapter for discussion.)		U, G
Demonstrate how to cite a source used in a paper or project, following an assigned style guide.	info-handling choices	user	Indicator 3, Outcome a		U

Student Learning Outcome	Student Need	Student Role	Map to ACRL IL Std. 5	Map to ACRL SC Principles	Student Level
Demonstrate how to acknowledge an idea or story contributed by someone else and used in a student paper or project.	info-handling choices	user	Indicator 3, Outcome a		U
When provided a webpage, determine whether the source is copyrighted or not.	info-handling choices	user	Indicator 1, Outcome d		U
When obtaining an electronic resource from the library, from a Web service, or from a computer/phone app, determine whether it is subject to licensing terms and conditions.	info-handling choices	user	Indicator 2, Outcome e	Broadest possible access to published research and other scholarly writings	U, G
Give an example illustrating when a student must ask permission to include a copyrighted work in his assignment.	info-handling choices	user	Indicator 1, Outcome d		U, G
Give two examples of fair use of copyrighted works and explain why they are fair.	info-handling choices	user	Indicator 1, Outcome d	Fair use of copyrighted information for educational and research purposes	U, G
Explain why a source that is free of copyright restrictions still needs to be cited if used in a paper or project.	info-handling choices	user	Indicator 1, Outcome d		U, G

Student Learning Outcome	Student Need	Student Role	Map to ACRL IL Std. 5	Map to ACRL SC Principles	Student Level
Given a sample student paper that incorporates copyrighted material used with permission, insert a proper permission-granted notice in the appropriate spot in the document.	info-handling choices	user	Indicator 2, Outcome b		U, G
Given a sample student paper that incorporates copyrighted material distributed with a Creative Commons license, insert a proper attribution for the included material.	info-handling choices	user	Indicator 3, Outcome b		U, G
Using the Fair Use Checklist, perform a Four Factor analysis to determine if using a copyrighted work meets the standard for the fair use exemption.	info-handling choices	user	Indicator 1, Outcome d	Fair use of copyrighted information for educational and research purposes	U, G
Articulate the reason why citing a source excerpted at length in a student paper is not enough to fulfill legal requirements.	info-handling choices	user	Indicator 1, Outcome d Indicator 3, Outcome b	Fair use of copyrighted information for educational and research purposes	U, G
List two benefits of registering a copyrighted work with the US Copyright Office.	info-handling choices	author	Indicator 1, Outcome d		G
Explain how an author/creator gets her work protected by copyright.	info-handling choices	author	Indicator 1, Outcome d		U, G
Determine copyright ownership for a student project developed collaboratively.	info-handling choices	author	Indicator 1, Outcome d		G

Student Learning Outcome	Student Need	Student Role	Map to ACRL IL Std. 5	Map to ACRL SC Principles	Student Level
Describe an example where a university policy controls how a student must distribute his copyrighted work.	info-handling choices	author	Indicator 2, Outcome e	Broadest possible access to published research and other scholarly writings Increased control by scholars and the academy over the system of scholarly publishing	U, G
Demonstrate how to affix a copyright notice to a textual work	info-handling choices	author	Indicator 1, Outcome d		U, G
Demonstrate how to affix a Creative Commons license to a textual work.	info-handling choices	author		Open access to scholarship	G
List the types of content licenses available through Creative Commons and what uses are allowed under each license.	info-handling choices	author		Open access to scholarship	G
Describe what an open access journal is and what the benefits are to users of these publications.	info-handling choices	user author	Indicator 1, Outcome b	Open access to scholarship	U, G
Describe the benefits of publishing an article in an open access journal.	info-handling choices	user author		Broadest possible access to published research and other scholarly writings	G

Student Learning Outcome	Student Need	Student Role	Map to ACRL IL Std. 5	Map to ACRL SC Principles	Student Level
List two sanctions a student may face if found to have plagiarized.	costs and consequences	user	Indicator 2, Outcome f		U, G
List two legal consequences a student may face if found to have infringed copyright.	costs and consequences	user	Indicator 1, Outcome d		U
Articulate the cost borne by a community from an act of plagiarism.	costs and consequences	user	Indicator 2, Outcome f		U
Articulate the cost borne by society from an act of copyright infringement.	costs and consequences	user	Indicator 1, Outcome d		U
Articulate the cost borne by society from an act of transferring copyright to a publisher.	costs and consequences	author	Indicator 1, Outcome d	Broadest possible access to published research and other scholarly writings	G

Theft of the Mind Sample Lesson Plan

A͟T͟M | **TEXAS A&M**
U N I V E R S I T Y   **Lesson Plan**

Course Information	*Theft of the Mind: tales of piracy and plagiarism from headlines to Hollywood* UGST 181-517. Fall 2011
Lesson name	Fair use or Foul?: Was Pawlenty's Use of Olympic Footage an Infringement
Lesson delivered date(s):	

Description of Lesson:

Students individually analyze a real-life case of alleged copyright infringement where the defendant claims his use was Fair. Based on news reports of the case and a screening of the actual commercial containing the allegedly infringing material, students perform a four factors analysis and decide if they believe the use is fair.

They compare their findings with classmates and defend their positions in class.

Student Learning Outcome(s) Addressed in this Lesson

• List two examples of Fair Use of copyrighted works and why they are Fair.
• Gain practice using a Four Factor analysis to determine if using a copyrighted work meets the standard for the Fair Use exemption

Resources Needed

Article "ABC Sports says Pawlenty violated copyright with 'Miracle on Ice' footage" *Iowa Caucuses website*, Online, URL: abc-sports-says-pawlenty-violated-copyright-with-miracle-on-ice-footage

Video (approx. 30 seconds) "TV Ad: The American Comeback," Online, URL: http://youtu.be/a5q1RmQQEso

Fair Use Checklist from Columbia Copyright Advisory Office, Online, URL: http://copyright.columbia.edu/copyright/files/2009/10/fairusechecklist.pdf. [NOTE: handed out in class under Fair Use's provision for making multiple —download additional copies yourself if needed]

In-Class Activity/ies	Out of Class Activity/ies
• Turn in completed Fair Use Checklist • Screen video in class • Project Fair Use Checklist on screen and review each factor together. Allocate approx. 30 minutes to cover each factor and allow students to discuss and debate • Project bar graph showing results of evaluations. Question to class: why do you think the results are mixed?	• Read assigned article • Watch assigned video • Perform Four factors evaluation using Fair Use Checklist. Fill in relevant boxes on form and write findings (Fair | Infringement) at the top of the form • E-mail results of Fair use evaluation to professor by deadline

Take-home messages to offer at conclusion of class

- Fair use can be risky—the only findings that matter are the judge's ruling
- Options to avoid risk?
- Ask permission.
- Use material that does not present copyright issues
  — Material you make yourself
  — Material already licensed for your use
  — Material that is in the public domain

Assessment Method

- Timely completion and submission of e-mail reporting results of Fair Use evaluation
- Timely completion and submission of Fair Use Checklist at beginning of class
- Participation in in-class review and discussion of Four Factors evaluation

Notes on Improving this Lesson for next time

For in-class review and discussion of four factors analysis, use clickers in order to

- Anonymize each student's findings
- Also ask students to key in their political affiliation or leanings

Ask class if they think a Fair Use evaluation could be influenced by bias on the part of the judge?

Notes

1. For more information, see Springer and Yelinek 2011 and Ariew and Runyan 2006.
2. The learning outcomes developed for *Theft of the Mind*, along with a sample lesson plan, are provided at the end of the chapter in Appendices 3.1 and 3.2, respectively. The authors encourage readers to adapt, expand on, and assess the curriculum in their own campus settings, with the hope that any resulting materials will be shared alike.
3. Pub. L. No. 110-315, 122 Stat. 3078.
4. Pub. L. No. 107-273, 116 Stat. 1758.
5. Pub. L. No. 105-304, 112 Stat. 2860; for more information about legal mandates for campus copyright instruction, see Gilliland and Clement 2012.
6. For more information, see Newman, Bleic, and Armstrong 2007.
7. For more information about Bloom's Taxonomy, see UNC Charlotte 2012.
8. For more on high-impact practices in higher education at Texas A&M, see TAMU 2012b; for more information about research into high-impact practices, see AAC&U 2012a.

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