Copyright & licensing in Japan: Today and tomorrow

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STM Connect Japan, November 2017
Making Copyright Work

Rightsholders

800+ million rights from:
• Publishers
• Authors
• Agents
• Creators

Copyright Clearance Center

Licensing solutions
Rights Management
Content Delivery
Copyright Education
Service Bureau

Content Users

35K companies
Workers in 180 countries
1,200 colleges and universities
Publishers and Authors
Collective Licensing
Individual Licensing

1 Rightsholder ➔ Specific Use of 1 Work ➔ 1 User
Collective Licensing

Multiple Rightsholders ↔ Multiple Works ↔ Multiple Users
How Collective Licensing Works

Rights from many sources are available in one place

Copyright holders

Content users
How Collective Licensing Works

Royalties are collected from content users and distributed to rightsholders
Key duties and responsibilities

License

Collect

Distribute
Benefits of Collective Licensing

- Faster, more convenient way for users to access rights & share legally
- More efficient way for copyright holders to license their works
Collective Management Organizations

• Exist in all creative sectors

• Are usually subject to specific legal regulations at national level

• Increasingly subject to government regulation
Reproduction Rights Organizations (RROs)
Some CMOs are RROs

Reproductive Rights Organizations
License the reuse and sharing of:
Books
Journals
Newspapers
Magazines

In some cases, RROs also license:
- Press Clippings
- Visual Works
- Sheet Music
- Library Lending

Separate Organization
Separate Organization
Separate Organization
Separate Organization
RROs Around the World

• 84 RROs worldwide
  - USA: Copyright Clearance Center (CCC)
  - Japan: JAC, JCOPY, JRRC

• Most RROs belong to IFRRO
  www.ifrro.org
Copyright Licensing in Japan

Ministry of Culture, Education, Sports, Science & Technology (MEXT)

Agency for Cultural Affairs (ACA): Copyright Division

- Japan Academic Assn. for Copyright Clearance (JAC)
- Japan Publishers Copyright Organization (JCOPY)
- Japan Reproduction Rights Center (JRRC)
JAC: key data

• Japan Academic Association for Copyright Clearance
• Established in 1989; re-organized in 2003
• Registered with the ACA as a CMO in 2002
• Five member associations (scholarly societies)
• Board (Directors, Advisors & Inspectors)
• Annual collections (latest): €12.1 million
• IFRRO: full RRO member
JAC: markets and products

• Primary rights holders: academic/scholarly societies
• Key licensees: corporations (esp. pharmaceutical)
• Products:
  • Annual photocopy license (AAS)
  • Annual photocopy license (MR-AAS): medical representatives
  • Transactional photocopy license (TRS)
  • Digital Copyright License (DCL): sold by RightsDirect Japan
• RRO agreements (30+)
JRRC: key data

• Japan Reproduction Rights Centre
• Established in 1991; CMO registration in 2002
• Four member associations
  • Copyright Council of Newspaper Publishers
  • Federation of Authors Organizations
  • JAC
  • JCOPY (terminating governance role in 2017)
• Annual collections (latest): €2.4 million
JRRC: markets and products

- Primary rights holders: newspapers
- Key licensees: 6,100 corporations and libraries
- Products:
  - Annual photocopy license
  - Transactional photocopy license
- No RRO agreements (some pending)
- IFRRO: full RRO member
JCOPY: the basics

• Japan Publishers Copyright Organization
• Established in 2009
• Annual collections (latest): €5.7 million
• IFRRO: full RRO member
JCOPY: markets and products

- Primary rights holders: 350+ journal & book publishers
- Key licensees: corporations (+ universities)
- Products:
  - Annual repertory license (digital + photocopy)
  - Annual transactional license
  - Single transactional license
  - Document delivery services (in partnership)
- RRO agreements
How RROs Are Organized

• RROs usually are non-profit associations of rightsholders

• Aggregation of rights through voluntary or legal mandates

• Internal and external control mechanisms
What’s the Value?

• Supports research
• Supports teaching
• Enables sharing
• Efficiency
• Protects rights
• Rewards creators
We need a global infrastructure that permits simple, global licensing. One that makes the task of licensing cultural works legally on the Internet as easy as it is to obtain such works there illegally.

Francis Gurry
Director General, WIPO
Copyright reform in Japan?
What do we know?

- Agency for Cultural Affairs: Copyright Subdivision
  - Interim report: 29 February 2017
  - Copyright Educational Use: 2015 study
  - Copyright Comprehensive Limitation: February 2017
  - August 2017 public notification

- Legislative timetable
  - Delayed by recent elections
  - Text available when the Diet’s next session begins
  - Draft text in February or March 2018?
  - Introduction to Diet in May or June 2018?
Criteria for future exceptions

1. Exceptions that meet “the needs of the new era”
2. Facilitating technology-based teaching and learning
3. Promoting information access to those with disabilities
4. Enabling libraries’ access to orphan and out-of-commerce works
Exceptions for “the needs of the new era”

• “Multi-layered” system
  • Clarity and flexibility

• Three layers
  • “Degrees of disadvantage” incurred potentially by rights holders

• Maximizing effect through promotion and user education
Technology-based teaching & learning

• Promoting the use of ICT in the classroom
• Facilitating “on demand and interactive transmission”
• Encouraging use while protecting rightsholders
• Remunerated exceptions
• Encourages co-operation of users and rightsholders:
  • Administration of licensing & remuneration procedures
  • Copyright education for users
  • Promotion of responsible classroom uses
• Need for further research on uses
Information access for disabled users

• Proposes amendments to Article 37 (3)
  • Designated beneficiaries to include reading-disabled users
  • Email transmission to be an authorized use
  • Extension of those permitted to make reproductions (e.g. voluntary groups)
Libraries/Archives

• Out-of-commerce “materials”
  • Extend current system to add libraries in other countries as “destination facilities” for works transmitted by National Diet Library
  • Extend current system to encompass electronic access to works using “thumbnail images”

• Remuneration of rightsholders of orphan works
  • After rightsholder comes forward

• Further discussion required on various issues:
  • Copyright clearance
  • Promoting use of works, etc.
Is Fair Use coming to Japan?

- Longstanding pro-Fair Use lobby
- Advocates contend that Fair Use would stimulate growth of Japan’s IT sector
- Signals of government opposition?
- Favors introduction of specific, narrower exceptions?
- Unclear what exceptions will be prioritized and when they will be introduced
- Balancing interests of users and rightsholders
Criteria for new exceptions?

1. “Non-intrinsic uses”, not normally harmful to the interests of rightsholders, for example
   • Creation of database search and retrieval tools
   • Reverse engineering services
   • Automated translation services

2. ”Non-intrinsic uses”, where harm to the interests of rightsholders is slight or insignificant

3. “Intrinsic uses” that support “the public interest”
In conclusion…
Conclusions

- We have much more to learn
- “Diversity of views was a distinguishing feature”
- US-style Fair Use appears to have little support
- “Fair Use for machines”. Is this a risk for publishers?
- Little or no consensus on educational exceptions
  - More work required on key uses, e.g. MOOCs
  - Will any new exceptions be remunerated?
THANK YOU!
QUESTIONS?
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