

COPYRIGHT INFRINGEMENT & PLAGIARISM: ARE THEY REALLY TWO SIDES OF A COIN?

Ms. Shantashree S. Sengupta

Librarian & Head,

Department of Library & Information Science

C.T. Bora College, Shirur, Dist. Pune.

Abstract:

The copyright issue has gained lots of importance in the information society. Using digital technology to record, make available, store, archive and transfer works triggered the change in methods and scope of their exploitation. The ease of availability of scholarly material in digital environment can be considered as one of the main reasons of rise in plagiarism issues. Plagiarism is considered academic dishonesty and a breach of journalistic ethics. Plagiarism and copyright both have a great deal in common. There is a great confusion regarding the differences between copyright infringement and plagiarism. But there are differences between plagiarism and copyright infringement. The present review paper attempts to differentiate the concepts with the help of examples.

Keywords: Plagiarism, Copyright, Copyright Infringement, Fair Use.

Introduction:

The evolution of copyright has been closely linked to technological development. Whereas, most of the technologies made copyright protection more difficult, digital computers managed to alter the fundamental concepts behind copyright. Copyrights have a great influence on majority of library activities. They shape the type of services offered by libraries to their users and the conditions on which a library can offer access to materials protected by copyright. As a result, copyright affect the way libraries can function and conduct activities such as storing, protecting and making their collections available.

Harrod's Librarians' Glossary explains Copyright as "a procedure whereby the originator of a piece of intellectual property (book, article, piece of music etc.) acquires a series of rights over the work created, including copying, publishing, performing, broadcasting and adaptation. The changing world and multiplicity of items led to substantial changes in copyright legislation and international agreements, current technological advances have put copyright law under stress again."

Plagiarism has always been a difficulty in publishing but the problem has aggravated with the unauthorized re-use of material found on the Internet. It can be intentional or non-intentional. Harrod's Librarians' Glossary explains Plagiarism as "using another person's work and publishing it as one's own without payment or acknowledgement".

Plagiarism is not the same as copyright infringement. While both the terms may apply to a particular act, they are different terms, and false claims of authorship may subject to plagiarism regardless of whether the material is protected by copyright or not. It is considered an ethical offense and can be harmful to one's academic reputation and honesty.

What is Plagiarism?

Oxford English Dictionary defines Plagiarism as the "wrongful appropriation" and "stealing and publication" of another author's "language, thoughts, ideas, or expressions" and the representation of them as one's own original work.

Fishman (2009) defines Plagiarism by mentioning various elements involved in it:

Plagiarism occurs when someone-

1. Uses words, ideas, or work products
2. Attributable to another identifiable person or source
3. Without attributing the work to the source from which it was obtained
4. In a situation in which there is a legitimate expectation of original authorship
5. In order to obtain some benefit, credit, or gain which need not be monetary

The above definition clearly explains that plagiarism is mainly harmful because someone is trying to get credit for some work, ideas which he are not his own.

What is Copyright?

Copyright laws (title 17, U. S. Code) provide protection to the authors of “original works of authorship,” including literary, dramatic, musical, artistic, and certain other intellectual works. This protection is available to both published and unpublished works. Under copyright law, if you don't own the copyright to a work, you cannot do the following without permission from the copyright holder:

- Reproduce copies of the work
- Create derivative works based on the work
- Distribute copies of the work
- Perform the work publicly
- Display the work publicly

There are various times when the reproduction of a particular work may be considered fair, such as criticism, comment, news reporting, teaching, scholarship, and research. However, under certain circumstances, using parts of copyrighted works is considered “fair use,” and is allowable under the law. Courts consider these four factors in determining whether or not a particular use is fair:

- the purpose and character of the use, including whether such use is of commercial nature or is for nonprofit educational purposes
- the nature of the copyrighted work
- amount and substantiality of the portion used in relation to the copyrighted work as a whole
- the effect of the use upon the potential market for or value of the copyrighted work.

Difference between Copyright Infringement and Plagiarism:

The Differences between Copyright Infringement and Plagiarism can be studied with the help of the concepts being discussed by various University Libraries supported by examples.

1) According to Concordia University Library -

“Plagiarism is an **ethical** concept based on community standards. In academic contexts it is perceived as a serious violation of academic honesty. Plagiarism can be intentional and unintentional. It is intentional when a writer seeks to deceive the audience by claiming work as one's own production that was not created but stolen or “borrowed” from another, with little or no attribution of that fact, or “created” citations that are unrelated to the quotations. On the other hand, unintentional plagiarism can result from failing to cite or cite adequately a source or from a mis-use of the summary or paraphrase of a cited source.

Copyright is a **legal** concept to protect “original works of authorship fixed in a tangible medium of expression” in order to encourage the production of those works and at the

same time limiting those rights to allow the free flow of ideas in a way that benefits society. It is determined by legislative law and court rulings. The most important copyright law is the 1976 law, which sets forth the rights of the rights holders of copyright:

Five Pillars or rights of the Copyright Holder:

- 1) reproduction,
- 2) adaptation,
- 3) publication,
- 4) performance, and
- 5) display.

These rights include both the right to do something (e.g., adapting a movie from a play) and preventing others from doing that act. A violation of any of the exclusive rights of the copyright holder is said to be a copyright infringement.

2) According to University of Connecticut Libraries:

Copyright infringement is violation of the exclusive rights of the copyright holder and may carry legal consequences. Copyright infringement can take many forms. Examples of copyright infringement may include borrowing significant portions of another's work in the creation of a new work, making and distributing unauthorized copies of a sound recording or video, or publicly performing another's work without permission from the copyright holder, even if the original work is cited.

The law identifies several exceptions and limitations to copyright that do not constitute infringement.

Plagiarism involves using another's work without attribution, as if it were one's own original work. It is considered an ethical offense and can be detrimental to one's academic reputation and integrity.

It is possible to plagiarize without violating copyright, and it is possible to infringe on another's copyright without plagiarizing. It is also possible to both plagiarize and violate copyright at the same time.

3) According To Jonathan Bailey, the differences between Plagiarism and Copyright Infringement are:

Copyright infringement is simply any infringement up on the rights of a copyright holder. Copyright law gives a copyright holder (usually the creator of the work) a set of rights that they and they alone can exploit legally (save for exceptions such as fair use). Those rights include:

- The right to reproduce (copy) a work.
- The right to create derivative works based upon it.
- The right to distribute copies of the work to the public.
- The right to publicly display or perform the work.

This means a wide variety of activities can be copyright infringing including performing a copyrighted play without permission, writing an unauthorized sequel to a work or simply making copies of the work.

In short, copyright infringement is a very broad term, rooted in the law that covers a wide range of unlawful activities that violate the rights (granted by the law) to copyright holders.

But where copyright infringement is a construct of the law, plagiarism is a construct of ethics.

Most things that can be plagiarized could be copyrighted. After all, most plagiarism deals with either creative or academic work or those types of works that typically qualify for copyright protection when they are new.

Bailey explained the differences between plagiarism and copyright infringement by giving a look into the similarities between the two. Plagiarizing a blog post on a new site, copying an encyclopaedia article without attribution for a book report or submitting a photograph someone else took under your name to a magazine are all examples of both plagiarism and copyright infringement.

Many plagiarisms are actually addressed through the legal framework provided by copyright law. Plagiarized content posted online is often removed with takedown notices, commercial plagiarisms, for example in advertisements, are often dealt with through lawsuits and so forth.

The Differences:

The key difference between plagiarism and copyright infringement is that not all plagiarisms are infringements and not all infringements are plagiarisms.

A person can plagiarize almost anything, including works that are not protected by copyright. If you were to claim to have written "Hamlet", for example, it would be a plagiarism but not a copyright infringement because the play is in the public domain and is not protected by copyright.

It's also worth noting that getting permission to use a work makes the use non-infringing though it might still be a plagiarism. For example, getting permission to submit a purchased essay means that the use is not an infringement, but it is still a plagiarism as the work is not originally yours.

In short, it's possible to infringe a work without plagiarizing it and it's equally possible to plagiarize something without committing copyright infringement.

Conclusion:

Though plagiarism and copyright infringement often overlap, it's important to remember that the two are not same and can never be really same. Plagiarism is an ethical construct and copyright infringement is a legal one. Most important point to remember is while copyright infringement has one victim, the copyright holder(s), plagiarism has two sets of victims, the copyright holder(s) and the people who were unaware about the origin of the work.

References:

1. Bailey, J. (2013). The Difference between Copyright Infringement and Plagiarism. *Plagiarism Today*. Retrieved November 29, 2014 from <https://www.plagiarismtoday.com/2013/10/07/difference-copyright-infringement-plagiarism/>
2. Fishman, T. (2009, September 28-30). We know it when we see it is not good enough: toward a standard definition of plagiarism that transcends theft, fraud and copyright. Paper presented at 4th Asia Pacific Conference on Educational Integrity, University of Wollongong NSW Australia. (pp.1-5). Retrieved December 1, 2014 from <http://www.bmartin.cc/pubs/09-4apcej/4apcej-Fishman.pdf>
3. *Plagiarism vs. Copyright*. (2012). Concordia University Library. Retrieved November 25, 2014 from [http://www.concordia.edu/sitefiles/w3/Library/Plagiarism%20vs%20\(2\).pdf](http://www.concordia.edu/sitefiles/w3/Library/Plagiarism%20vs%20(2).pdf)
4. *Plagiarism vs. Copyright Infringement*. (2012). University of Connecticut Libraries. Retrieved November 29, 2014 from <http://www.lib.uconn.edu/copyright/plagiarismVsCopyright.html>
5. Prytherch, R. (Ed.) (2005). *Harrod's Librarian's Glossary & Reference Book*. England: Ashgate. pp. 173, 543.