

**ANNUAL REPORT OF THE UNIVERSITY COMMITTEE ON COPYRIGHT TO THE
FACULTY COUNCIL**

March 19, 2024

Committee Members:

Last Name	First Name	Department	School	Seat	Term Expires
Bovens	Luc	Philosophy	Arts and Sciences	Faculty Appointee	2024
Burger	Kyle	Nutrition	Public Health	Faculty Appointee	2024
Drummond	Collin	Information and Library Science	Information and Library Science	Graduate Student Appointee	2024
<i>Gilliland</i>	<i>Anne</i>	<i>University Library</i>	<i>Libraries</i>	<i>Faculty Appointee</i>	<i>2025</i>
Graham	Nicholas	University Library	Libraries	Faculty Appointee	2025
Johnson	Martin	English and Comparative Literature	Arts and Sciences	Faculty Appointee	2024
McLeod	John	COO and Director of the Office of Scholarly Publishing Services	UNC Press	UNC Press	EO
Quay	Jackie	Director, Licensing and Innovation Support	Office of Technology Commercialization	Representative	2024
Reid	Amanda	Journalism and Media	Journalism and Media	Faculty Appointee	2025
Rizvi	Imran	Biomedical Engineering	Medicine	Faculty Appointee	2026
Shpargel	Karl	Genetics	Medicine	Faculty Appointee	2026

Non-voting member: Lee Bollinger, Associate University Counsel

Report submitted by Anne Gilliland, Scholarly Communications Officer, University Libraries, Chair.

Committee charge

The committee represents to the chancellor and the University community the concerns of faculty and other users and creators of scholarly information. The committee's functions include: monitoring trends in such areas as institutional or consortial copyright use policies, changes in copyright ownership models, and guidelines for fair use of information in all formats; identifying areas in which policy development is needed and recommending to the chancellor new or revised institutional policies and guidelines; cooperating with the administration to propose and monitor the application of University policies and guidelines regarding ownership and use of copyrighted or licensed scholarly works; and assisting in identifying educational needs of the faculty and others related to compliance with copyright policies and guidelines, and advising on appropriate ways to address those needs.

Committee meetings:

- September 26, 2023
- October 24, 2023
- November 29, 2023
- February 21, 2024

Upcoming meetings:

- March 20, 2024
- April 17, 2024

Committee activities

Artificial intelligence, and how it relates to copyright issues, controversies, and cases is the subject that has dominated the committee's discussions this year. They included discussions of high-profile copyright cases involving AI, discussions of theories of liability in such cases, discussions of the uses and perils of artificial intelligence, how its use relates to authorship, best practices for student use in AI, and how to discourage plagiarism when AI is used. Another major topic centered on the contract changes that the University Libraries are facing with major ejournal publishers, and these companies seek to limit or eliminate the use of their content in conjunction with artificial intelligence. The last section of this report expands on this issue and the committee's concerns.

Presentation to the Faculty Council

Most of the committee's discussions this year have been taken up with the growing number of cases and controversies around copyright and artificial intelligence. There are considerable unsettled questions of law and policy in this area, as well as several concepts that will likely continue to hold true as we explore this new technology. As the Chair of the Copyright Committee, I asked for time on the agenda to highlight an issue that came to the committee's attention recently.

The University Libraries are in the process of negotiating new contracts with Elsevier and Springer, two publishers who provide us with access to some of the most expensive and prestigious content in our collections. In both cases, these changes stem from concerns about how the use of generative artificial intelligence may infringe on their copyrights. In response, they are proposing contract terms that will severely limit the fair use rights of the UNC community by limiting the use of even small parts of their content as artificial intelligence prompts. For example, under their proposed agreement, a student who enters even a few sentences from an Elsevier article as a generative artificial intelligence prompt in a public system would be in violation of our contract. Similarly, Elsevier also seeks to prevent our community from using any of their content—including the use of a sentence or a few phrases—in a social media post. Besides the abridgement of our users' legal rights under copyright law, these contract provisions would be virtually impossible for the libraries to enforce.

It is a cliché to say that copyright law is about balance, but it is nevertheless true. Under U.S. law, not only rights holders have rights, but also the general public has rights to re-use copyrighted work for socially useful purposes that include, research, teaching, criticism, and commentary under the fair use statute. Courts have held that the use of text and data analyses are also examples of fair use in many instances. These rights can be eliminated through contract terms, but it would be unwise to do so, especially when UNC is exploring the use of artificial intelligence in many programs and projects. It is unclear, for example, if Elsevier and Springer's restrictions would allow for the enterprise-level use of Microsoft Co-Pilot.

Frequently, the largest academic journal publishers are a bellwether for the industry. We can expect to see similar contract terms from other publishers in the foreseeable future. As the libraries continue to negotiate for more reasonable terms with these publishers, the Copyright Committee encourages other branches of Faculty Governance to be aware of rights issues that may occur as we use and learn about artificial intelligence and to call upon our expertise when it can be helpful.