



# Legal Issues in E-access and E-preservation: A Case Study

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# Digital Dilemma: Problematic Issues



**Advances in technology have produced radical shifts in the ability to reproduce, distribute, control, and publish information**

**With its commercialization and integration into everyday life, the information infrastructure has run headlong into intellectual property law**



# Digital Dilemma: Problematic Issues



**Stockholders are many and varied**

**Content creators have different agendas handle IP according to varying strategies, and look for different kinds of return on their investment**

**Fundamental legal concepts can be interpreted differently**

**Laws and practices vary worldwide, yet networks have global reach**

**The economics of information products and IP can be subtle.**



# Digital Rights Management



**Digital rights management (DRM) is a systematic approach to copyright protection for digital media.**

**The purpose of DRMs is to prevent illegal distribution of paid content over the Internet.**

**DRM products were developed in response to the rapid increase in online piracy of commercially marketed material, which proliferated through the widespread use of Napster and other peer-to-peer file exchange programs.**



# Licensing



**License is a legal method of voluntary transfer of ownership of an intellectual property over a definite period.**

**In simple words this is the permission by the owner of an IP to another persons or legal entity to perform or enjoy the exclusive rights of the owner as per the mutually agreed terms and conditions during a mutually agreed period of time**



# Licensing Digital Content



- Licensed content comes with a set of terms and conditions, or clauses, that govern the permitted use of that content
  - License should clearly define the content. It should have content name, licensor's complete details, rights, terms and condition etc.
  - Two types of rights are granted through license
    - Exclusive: Owner may only grant the content to one enterprise at any given time.
    - Non-exclusive: Owner may grant another enterprise the right to use the same content at the same time.
- Most licenses for databases, online journals, images and photographers are non-exclusive



# Licensing Digital Content



## Standard Clauses in a License Agreement

Indemnity & Liability Limitation

Governing Laws & Amendments

**Dispute Resolution/Arbitration**

**Jurisdiction**



# Licensing Digital Content



## Point to be Considered for Licensing Digital Content

Payment Mode

Length of License and Renewal

Permitted Uses & Authorized Users

## Issues of Concern

Perpetual Licensing

Annual/Renewal

Permitted uses & Authorized users





# Issues in E-access



## E-Journals/Online Journals

**Pricing for Print, Print+Online**

**Back-up Copy**

**Content Fee**

**Cross-Sharing Fee**

**Additional Charges**

**Bundling of Journals**

**Multiplication by No. of Labs**

**Abnormal Pricing**

**Differential Pricing for Different Organizations**

**Professional Societies vs Commercial  
Publishers**

**Perpetual Access**

**Problems when Subscriptions are discontinued**



# Issues in E-access



## E-Books

- Onetime Payment vs Renewals**
- Rev Editions vs Pricing of Digital & Print Versions**
- Annual Licensing**
- Back-up Copy**
- Perpetual Access**
- Bundling/Minimum No. of Titles**

## E-Standards

- Annual Licensing & Perpetual Dependence**
- Revised Standards vs All Standards**
- Time Lock/Software Lock**
- Perpetual Access**
- Exorbitant Pricing**



# Issues in E-preservation



**Formats & Standards**  
**Open Access/Open Archives**  
**Institutional Archiving/Repositories**  
**Self Archiving**



# Points to Ponder



**Monopoly of Publishers vs MRTPC/CC**  
**Content Creators vs Rights Holders**  
**Rights Holders vs Consumers**  
**IPRs vs Societal Rights**  
**Reasonability in Pricing**  
**Application of Fair Use for Digital Documents**  
**Copies, ILL, etc**



# Legislations Needed



## At National Level

**Public Access to Science Act**

**Consumer Protection Act for Digital Products**

**Audio Home Recording Act (Customers Right to Copy)**

## At WTO/WIPO Level

**Remedy against Monopolistic Attitudes of Developed Countries**