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Institutional Repositories And Electronic Theses And Dissertations: Rights And Permissions In Copyright

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Abstract:

The production of a thesis or dissertation is a responsibility shared by the student, supervisor, and faculty. Librarians are available for advice, before submission, on the technical requirements of the thesis. This consultation, referred to as Thesis Scrutiny, ensures that postgraduates adhered to the referencing style of their respective discipline and conformed to the layout as contained in The University's Thesis Guide.

Formerly, dissertations were stored in the libraries' holdings in print format only. Now, electronic theses and dissertations (ETDs), consisting of digitized and born digital literary works, are hosted in the library's institutional repositories (IRs) through the use of Open Source software such as DSpace. The retention of these works in an electronic format required an additional grant of permission to host these works in an electronic format. Electronic hosting of these works suggests an expansion of the role of the library as publisher. This portrayal brings with it additional responsibilities to ensure hosted works do not infringe on copyright through the use of third party material which may not fit neatly under the umbrella of Fair Dealing. Although infringement and plagiarism are terms often used interchangeably there are distinctions. Plagiarism is the act of presenting another's

work as one's own and is an ethical construct, while infringement is a violation of legal rights carrying civil and criminal liability with penalties of up to five (5) years in prison (s.31(1) & 46(1) Copyright Act.

In Jamaica, s.9 of the Copyright Act provides specifically that copyright owners have the right to determine that their works may not be reproduced, distributed, broadcast, adapted or communicated to the public without their expressed permission. These are commonly referred to as economic rights as the licence to undertake such acts invariably entail a fee thereby enabling the copyright owner to benefit economically from the work.

Additionally, the law provides protection for the personal interests of the creators by granting the right to be identified as the author of the work (right of paternity), the right not to be identified as the author of someone else's work and the right to object to derogatory treatment of the work – collectively known as moral rights. These rights subsist even after transfer of the work.

Gaining permission to use copyright works often centres around licence agreements and fees giving the erroneous impression that the purpose of copyright is to provide a means of securing payment for copyright owners. The economic benefit of copyright is only one aspect of the rights afforded owners and is ancillary to the ultimate aim of the legislation which is to promote creativity and innovation for the benefit of society, and stimulate the growth and dissemination of information.

With regards to OA, even with the removal of economic consideration, there remains the requirement to gain clearance in order to satisfy the moral rights of authors. Copyright still has a role to play.

This paper proposes the need for clear policies to educate stakeholders, in particular postgraduates and faculty, about their IP rights as it relates to ETDs. Academic institutions, libraries and platforms who make copyright works available to the public need to ensure the framing and implementation of [a] policy to:

- educate as to the applicability of copyright
- agree to a system for correctly attributing work

- clarify who is responsible for obtaining clearance for use of copyright work and make relevant persons aware of their responsibilities

Keywords: Open Access Initiatives; Institutional Repositories; Electronic Theses and Dissertations; Copyright; Academic Libraries