

Copy Right Law Systems and Protecting Virtual Learning Environment Against Misapplications

Seyed Reza Eftekhari

Assistant Professor

Islamic Azad University – Gonabad Branch

Iran I.R.

E-mail: sreftekhar@yahoo.com

Abstract- In this article we propose that the problem of the web-based learning is neither like patents nor like scientific theories to be protected. However, as research tools become more specialized and propertized more and more fields of inquiry including eLearning's will ultimately fall under the domain of legal protection. We argue that this legal protection whether we accept its necessity or not, has some advantages such as a universal system of safeguarding web-based educational activities which would create a relatively safe virtual environment, protecting learning content, theories and patterns in the web, and enhancing the field of general education and cultural links. We may encounter problems in defining proper methods of developing local and international systems for creating safe and secure environment for eLearning.

Keywords- Copy right Law, eLearning, Learning Theories, Virtual Education.

I. INTRODUCTION

Recently we have been witnessing the concerns of legislature systems and occasionally the international legal bodies about the challenges to which the so-called law of intellectual property were exposed. Now these concerns are directed toward virtual environment. Theories, research findings, plans, knowledge content and artistic products are easily available through

the web. This situation has led to further concerns about protecting rights assumed to virtual contents of the web and enhancing the domain of legal protection, an action which may cause serious critics because of limiting imposed on open sharing. As in sciences and technologies which are available in websites the increased patenting of "research tools" has heightened anxieties that patents inhibit research and development [1].

Today many people may be wandering how the legislator may protect the virtual environment against different kinds of misapplication. Another question is that if there is actually any need to control virtual educational environment from different aspects.

New styles of education (in general, learning, teaching, and training) which exploit the technological instruments and communications and apply to any educational levels and different classes of learners have affected both states and the public equally. If we limit the meaning of e Learning to CBT (computer-based training), IBT (internet-based training) and WBT (web-based training) there would be many questions about the necessary or unnecessary controls that may be exerted by the copyright law. And the answer of many of these questions would necessarily refer to the content knowledge, styles, and the environment itself.

Many scholars may deny a need to protection of eLearning environments and

contents at all. This seems logical especially at a private environment because it consists of approved contents, styles, and ideas. However, the traditional view spreading among governmental approaches regarding the public educations usually talks about the necessity of official controls on any kind of training material and style through copyright law or punitive acts.

Anyway, in recent years, due to the vast expansion of communication network all around the world from one hand and the possible mobilization of huge amount of information in various forms by means of easy and portable technologies on the other, extending the law of intellectual property to the web-based activities and their contents have been on top of attention. This is because the field of intellectual property, as proposed by some scholars, is changing today. It is enjoying unprecedented growth, in both importance and scope [2]. So it can be explained as covering the new areas such as eLearning in which multi-function uses may occur.

The possibilities of telecommunication, including person-to-person contacts, and the gathering of information, have exploded exponentially through the Internet and this is continuing at an astronomical pace at a point of no return. As a result, and due to the simple but crucial fact that most of this can be conducted at minimum cost, the life and work of billions of people have been substantially affected for better or worse[3]. Generally in different forms of virtual training the chief purpose of any trainer is to widen the scope of learning by the aid of computer and communication technologies. One of the most important concerns of states now is to minimize the side-effects of such approaches in the public areas of education.

II. SYSTEMS OF CONTROL

Traditionally, every official system controls its educational environment with differentiation in intensity and via means including:

1. Using control measures such as monitoring the behavior of applicants in web directories and contents of websites in order to guarantee the safety of virtual environment. Virtual learning and training areas are not excluded. The legitimacy of any action within these areas is dependant on the affirmative approach of local legislator who act as a supervisor.
2. The act of extending copyright laws and regulations protecting intellectual property can be applicable to any kind of web-based or computer-based activities including learning and training styles and contents. This approach has proved to be somehow conflicting. Most scholars do not agree that the copyright law system can be applicable such areas. As Rubinfeld says, "copyright, it has been said a thousand times, protects only expressions and not ideas" [2] It is true in many democratic legal systems like American Case Law. However, such a conflict between well-known copyright law and the local rules in many countries may not be an important concern.
3. Although new technologies such as computers and other communication tools may be in use in some societies, they do not recognize eLearning and other methods of distance learning as the official programs that can be embedded into the educational system. So the government opposes to these methods through his disapproval and so they are used just as aids in this field.

As a matter of fact, the control approaches in the afore-mentioned forms though may doubtfully seem applicable in relation to the knowledge contents there are many questions about the accountability of these ways. Current situation of distance learning and the related areas of teaching in modern day societies show that controlling and supervising the virtual learning environment is considered an out-of-the date measure. By the way the official trends toward controlling this area now exist. Watching the current conditions of CBT,

IBT and WBT will reveal the fading process of control from bottom to the top. (Fig. 1)

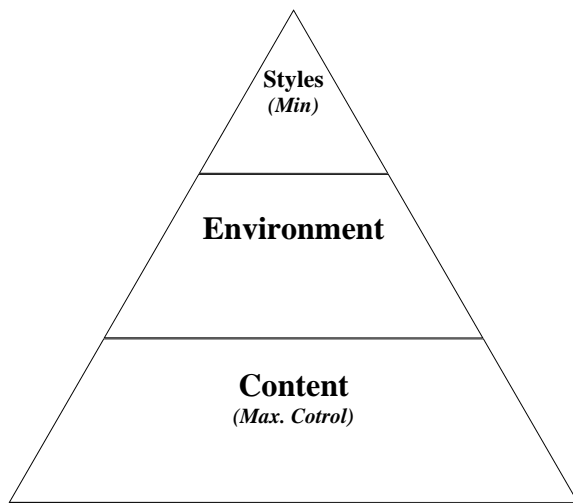


Fig. 1 Official Control over the Different Factors of Virtual Environment from Bottom to the Top

As shown in the figure 1 the maximum control may be exerted over the knowledge content on behalf of officials and this part of educational system almost always need the protection of copyright law. The Virtual Learning Environment (VLE), in which learners and tutors participate in several on-line interactions, including on-line learning [4] the levels of control may be lower or the copyright laws may be irrelevant. The minimum control is seen in the top of the system which is comprised of the styles and the tools themselves.

III. eLEARNING, CREATIVITY, AND THE POSSIBILITY OF CONTROL

In order to determine the level of control and the possibility or necessity of protecting VLE we must have a look at the primary elements of eLearning and the related fields of virtual education. Copyright laws normally aim to protect the rights of the producers of artistic and, as in new cases, scientific products. Considering the concepts of eLearning and other fields or VLE that may fall within the scope of these laws, and how the law of intellectual property could deal with them there exist many questions. Specifically it is suggested that the key

elements in an eLearning project are: lecturer, content, student, place, and interactivity [5]. Now the question is exactly that what are copyright laws doing in relation to these elements? Are they to be protected? Is it possible for local or international legal bodies to impose any confining rule on these environments?

Before answering these questions, we have to make some points. Firstly, as we noted before copyright law only protect expressions as intellectual property and not the ideas. Whether eLearning and the concepts we refer to as virtual learning environment are protected by copyright system or not need more consideration. Such issues as content, style, virtual environment and active relation between lecturer and student can hardly be considered as expressions and may be defined as merely ideas.

Secondly, according to fair use doctrine it is a defense to copyright claims allowing infringement upon a finding that the defendant engage in "fair use" of the copied material[2]. So in any case of learning in which contents and any kind of materials available in virtual environment are used this doctrine may be applied. While in some parts of the world including United States of America, reciting a poem in public without permission from state-licensed authorities would put you in jail [2] then applying the fair use doctrine in the fields related to VLE may be doubtfully accepted.

Thirdly, it seems that different kind of virtual training environment such as CBT, IBT, WBT, CBL do not have a definite place in the eye of copyright law. So it is hard to believe that the copyright laws can be extended to these areas in order to create a safe virtual environment for learning and training using computer technologies. Modern law in copyright areas has provided various legal measures to protect the materials which might be used as contents in current forms of virtual learning. Technological achievements have come to assist this purpose.

New technologies make it possible for right holders to exert more control over information at the code level. "Digital right management" (DRM) or technical protection measures have become an important part of the contemporary appropriation strategies of the information industries [6].

IV. PROPOSED WAYS OF LEGAL PROTECTION

The issues that are discussed here including the possibility or necessity of control, the safety of VLE and protecting intellectual contents from any kind of piracy by those who use them as learning or training materials are parts of a problem we call it "missing norms of VLE". Basically the copyright regulations are aimed to protect the different kinds of knowledge contents available on the web.

Virtual environment, as it has been said many times, need legal protection from three aspects: the safety of environment, the security of the rights of owners of intellectual properties used as materials and the legitimacy of styles and methods. This approach is to merely be discussed in regard to the on-line learning and as it is suggested, by which we mean purely on-line learning that essentially is the use of eLearning tools in a distance education mode using the Web as the sole medium for all students learning and contact [7].

A) The Safety of VLE

By the VLE safety we mean the outside supervising by any officials and to prevent from abusing web and internet environment and minimizing the harms of such misapplications. The variety of legal measures and public and private policies is so wide and at the same time many governments may apply a multi-dimension approach to confront the challenges produced by the extension of VLE.

eLearning enables unique forms of education that fits within the existing paradigms of face to face and distance education [7]. In this way many regulations related to the face to face education

considering the safety and legality of that area may apply to distance learning.

Naturally the official centers expect a safe educational environment and try to protect young trainees against any abuse and destructive activities. Generally the public policies in this regard are focused on punitive measures and in some cases such as drug or sexual abuse during training or in the environment may be punished severely.

The safety of VLE in this meaning may not be so disputable because all educational systems normally assume a set of similar policies to guarantee the safety of educational environment.

B) Contents and Materials

Different theories about the contents of eLearning and related fields are stressing the necessity of using technological tools to prevent abusive or illegal approaches. Perhaps one of the hardest tasks of every legal system or technological agents is to protect knowledge as an abstract identity of modern societies' assets. Knowledge (called by some "just-in-context") is specific to time, place, sequence, timing, position, and relationships, within communities' contextualization [8].

Protecting knowledge content is one of the main concerns of legislators in different systems. States may take different policies when faces the necessity of protecting intellectual property right of the research theories, chemical formulas, knowledge contents and curriculum materials. The dominant viewpoint apparently applied in well-known CRL systems such as United States of America is to protect knowledge contents as intellectual property. Knowledge content can be managed to be supervised through two channels in eLearning. The first is the so-called copyright laws that are so formulated to cover such areas as VLE. Materials may be abused or misapplied as technology or content in eLearning. So, modern systems assume for themselves the task of regulating different ways to protect intellectual rights belonging owners of these materials.

The second is the technical ways used with regard to the nature of various kinds of technologies that can be applied in virtual environment. One of the most useful of these is the CMS (Content Management System). CMS is a tool that enables a variety of centralized technical and non technical staff to create, edit, manage and finally publish a variety of contents,

which being constrained by a set of rules, processes and workflows that insures a coherent and validated appearance [9].

This system drags the attention of all of the active elements of eLearning to a security-centered process in which the contents are normally and technically managed. CMS must enable users to collaborate and interact on the creation and management of trusted content through the portal, and allow users to import or create new content and, edit existing content or properties. In conclusion, features are categorized to four content management areas: creation, management, publishing and presentation [9].

C) Law and eLearning Methods

Copyright law system puts methods in every learning and training processes in two groups. 1) Those methods and styles which are registered as intellectual properties belonging to their producers. 2) Those methods that are related to using any tools or technology in any direction or purpose. Methods that are usually used for learning and training purposes are of this kind. These groups are rarely protected by copyright law.

eLearning should be considered as a new approach in using and trying technological tools to create a novel and effective way of education. As it is suggested, eLearning enables unique forms of education that fits within the existing paradigm of face to face education [7]. In this meaning eLearning and other parts of VLE are related to the styles of learning and not to the content-knowledge. It is related to Horton that "eLearning doesn't change any thing about how human beings learn" [7].

V. CONCLUSION

Virtual learning environment should be protected against any kinds of abusive acts. It is expected that international legal bodies propose the proper regulations for creating a safe and secure environment for computer-based learning. Since the official policies taken by states are different in nature and

effects, the uniform measures, both legal and technical, are required.

Regarding the safety of VLE these policies include a vast range of punitive, civil, and educational measures. International law can not impose its rules on states aiming to produce a safe virtual environment and to prevent from piracy and abuse.

In order to create such a safe environment, both content-materials and methods should be managed in a proper way to help purposes of e-learning are achieved.

In this way, legal and technological instruments can be applied equally. Legal rules protecting the rights of the producers of knowledge theories and contextual contents are of the same important of the tools such as Content Management Systems.

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