

## UTILISATION OF PERMITTED USE OF COPYRIGHT MATERIALS: PRACTICES AMONG STUDENTS AT KWAME NKRUMAH UNIVERSITY OF SCIENCE AND TECHNOLOGY, KUMASI, GHANA

<sup>1</sup>Reuben K. A. Glover

Sabbatical Lecturer, Department of Graphic Design,  
School of Creative Arts, University of Education, Winneba, GHANA

<sup>2</sup>Jonathan Tetteh, Korletey

M.A. Publishing Studies, Kwame Nkrumah University of Science and Technology, Kumasi  
&

<sup>3</sup>Cyril Senyo Kpodo

Lecturer, Department of Art Education,  
School of Creative Arts, University of Education, Winneba, GHANA

### ABSTRACT

In its broad scope, the study investigates the use of literary and artistic works in education, from the context of Kwame Nkrumah University of Science and Technology, to highlight the impact of copyright awareness on the utilisation of permitted use of literary and artistic works among students. The study considers the role of permitted use in the utilisation of literary and artistic works in education and how the principle of permitted use is being utilized in academic institutions, in a way that commensurate “*fair*” use. The study drew a population of stakeholders in the academic environment, including Students, Lecturers, The Deputy Registrar (Academic & Student Affairs) and The University Librarian, to respond to questionnaire and interviews. It was found out in the study that nearly all the student respondents, representing 97% (n=485) fall within the domain of those who use literary and artistic works in their academic works. Approximately the same percentage of students expressed their awareness to provide sufficient acknowledgment to quotations used in their academic works. Conclusively, the study established that the practice of proper or “*fair*” utilisation of literary and artistic work in education is not up to the level expected among the students at the Kwame Nkrumah University of Science and Technology.

**Keywords:** Copyright, permitted use, fair use.

### INTRODUCTION

It is obvious that tertiary education revolves around the use of literary and artistic works which are protected by copyright, among other copyrighted materials. The purpose of permitted use is therefore to create a balance between the author and the users of their work through its system of exceptions and limitations which according to Darkey and Akussah, (2008) is the mechanism that makes the copyright system function properly. While copyright gives authors exclusive and excluding rights of their works, it also makes a provision where certain uses of copyright protected works are considered as “*fair*” use, for certain purposes including teaching in educational institutions, without prior authorisation of the authors or the acts being considered as an infringement of the authors’ right. This principle of “*fair*” use, in Ghana, is referred to as *permitted use*, enshrined in Section 19, 20, 21 and 22 of the Copyright Act, 2005 (Act 690). This study, selectively focuses on the section 19 of The Act. The inescapable question is; how, is this principle of permitted use being utilized in our academic institutions, in a way that commensurate “*fair*” use. Starr (2010) therefore asks, is permitted use a license to steal or abuse copyrighted materials? There is therefore the need to

go back to our academic institutions to audit the utilisation of literary and artistic works, among other copyrighted materials, to find out whether they are being put into legitimate use that corresponds to the permitted use principle.

### **Legal framework of permitted use**

In Ghana, the legal framework of the permitted use of literary and artistic works in teaching is enshrined in Section 19 of the Copyright Act, 2005 (Act 690). This section grants permission for the use of a literary or artistic work either in the original language or in translation where the use involves the reproduction, translation, adaptation, arrangement or other transformation of the work for exclusive personal use of a person, without the act being considered as an infringement of the right of the author in that work and shall not require the consent of the owner of the copyright.

This allows single copies to be made or short extracts of works to be taken when the use is for research, private study, or for teaching purpose. The purpose of this exception is to provide more access to the use of Literary and Artistic Works. However, subject to subsection (2), this permission shall not extend to reproduction in the form of reprography of a whole or of a substantial part of a book or a database in digital form, except that it is supported by a sufficient acknowledgment or indication of the source and the name of the author. A substantial part is not defined in the Copyright Act, 2005 (Act 690) but has been interpreted by the court and scholars to mean a qualitatively significant part of a work. This is because what is a substantial portion is often subjected to a qualitative rather than a quantitative test. It is the quality or essence of what has been taken rather than the amount that is taken that will often determine whether the portion taken is substantial or not.

### **Literary works and artistic works**

Section 76 of the Copyright Act, 2005 (Act 690) of Ghana defines literary work to include novels, stories or poetical works, plays, stage directions, film scenarios or broadcasting scripts, textbooks, histories, biographies, essays or articles, encyclopaedias, dictionaries, directories, time tables, anthologies, databases or compilation of data or other material, whether in machine readable form, which by reason of the selection or arrangement of contents constitutes intellectual creations; letters, reports or memoranda: lectures, addresses or sermons; and computer programmes whatever may be the mode or form of expression.

In another vain, artistic work means any of the following works: painting, drawing, etching, lithograph, woodcut, engraving, print, fashion design and wood design; photography not comprised in an audio visual film; map, plan or diagram; sculpture; work of architecture in the form of building or model; or work of applied art, whether handicraft or produced on an industrial scale, irrespective of artistic quality.

Literary and artistic works are used either in isolation or simultaneously in drawing, photograph, map, plan or diagram and in novels, stories or poetical works, plays, stage directions, textbooks, encyclopaedias, dictionaries, directories, reports, lecture notes in teaching, scholarship, or research to explain the text and give illustrations to the text, respectively.

## Copyright protection and the practice of permitted use

The objective of copyright has always been to protect the interest of creators or authors together with the dissemination of knowledge and information (Ashok, 2010, p. 46), this is because the law recognises that authorship requires an investment of time, effort and skills. Once expressed in tangible, physical form, an idea can be copied by others; this is the reason why the law provides protection against copying of those works that have been copyrighted (Bosumprah, 2009).

However, copyright law everywhere makes a provision where copyright protected works can be used for certain purposes such as criticism, comment, teaching, scholarship, or research without seeking permission from the copyright owner or sometimes paying a fee or the acts being considered as an infringement of the authors' right (Apple Computer Inc., 2006; Dankey and Akussah, 2008).

According to subsections (1) (2) and (3), the exemption provided in section 19 is not extend to reproduction in the form of reprography of a whole or of a substantial part of a book or a database in digital form, except that it is supported by a sufficient acknowledgment or indication of the source and the name of the author. This means, the permitted use an absolute exemption from copyright infringement.

### Permitted Use and Access to Knowledge

The academic and research community members care about permitted use and access to knowledge because copyright affects every aspect of their academic life (Crews, 2006), since it is not an absolute exemption from copyright infringement. As a matter of fact, everything they create and use in their teaching, learning, and research is protected under copyright. The Faculty Members and as well as the Students are all creators and users of literary and artistic works, most of them write articles and books, and prepare original teaching material. They also make creative uses of existing copyrighted works, building on them to create new knowledge. Hence, they rely tremendously on *permitted use*.

Many educators interpret *fair use* as freedom to use copyrighted materials as long as their use is restricted to instructional purposes (Starr, 2010). The abuse of permitted use principle, however, is the cause of plagiarism and piracy which remain the common forms of copyright violation in the academic institutions. Judging from the definition of plagiarism as defined by Osman (2010), the use of someone else's ideas or words without properly crediting the source, could constitute *academic plagiarism* (Elliott, 2010) whereby a student presents another person's words or ideas as his own in an academic paper without attributing the source. Globally, this makes academic plagiarism an act of academic dishonesty. According to Hall (2010), when Students present others' work as their own, they fail to develop and use their critical thinking skills, which are necessary for learning.

On the other hand, the academic community immensely benefits from both the protection of copyright ownership and the maximum utilisation of the legal exceptions granted by copyright law in the permitted use act.

## METHODOLOGY

This is a case study, employing the *Mixed Approach* because the researcher wanted to collect and analyze data, integrating the findings to describe and draw inferences using both *qualitative* and *quantitative approaches*, to make empirical inquiries into the subject. A sample of 500 respondents was created among the Students and supported with interviews with Lecturers, The Deputy Registrar (Academic & Student Affairs) and The University Librarian. Both probability and non-probability sampling methods (Trochim, 2006) were used in the study with *simple random*, *stratified* and *purposive samplings*.

Two kinds of data were collected for this study, which included the *primary* and *secondary* data. The primary data were collected through a *survey* and *interview*. The *survey* and *interview* were used as a primary strategy to obtain the needed information among the study population to determine the current situation in the utilisation of permitted use of literary and artistic works among students. The secondary data, however, were derived from the findings which had been stated in previously published documents and studies in journals, books, and internet as well as literature relevant to the research.

The data were analysed using descriptive statistics, including percentages and frequency generated from the responses elicited from the survey.

## PRESENTATION AND DISCUSSION OF RESULTS

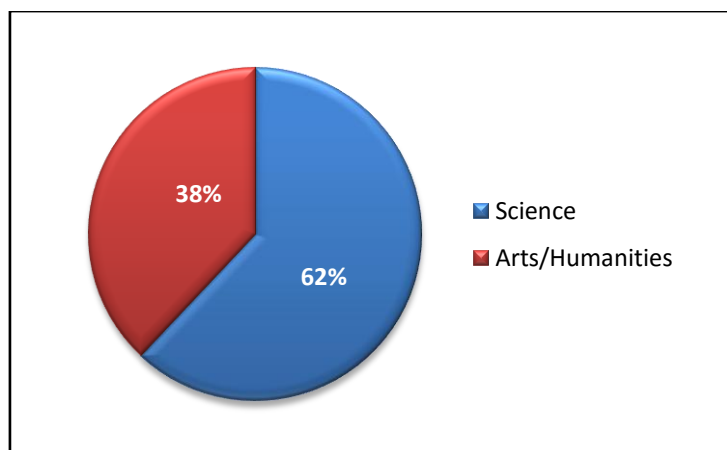
### The role of permitted use in the utilisation of literary and artistic works

All the 500 Students who responded to the *questionnaire* were grouped into five categories. Table 4.1 and Fig. 4.1 set out the distribution of the Students by their *year groups* and *programmes of study* respectively as recommended by Beebe (2008) to investigate the role of permitted use in the utilisation of literary and artistic works among students.

**Table 4.1: A distribution of Students by their year groups**

Year of study	Number of respondents	Percentage of respondents
First year	150	30%
Second year	125	25%
Third year	90	18%
Fourth year	85	17%
postgraduate	50	10%
<b>TOTAL</b>	<b>500</b>	<b>100%</b>

Inferring from table 4.1, it is right to conclude that the number of first year students for each academic year is significantly more than those in the respective years of study. This means, the number of Students who use literary and artistic works keeps on increasing at each passing year. The permitted use of copyright materials enshrined in section 19 Copyright Act, 2005 (Act 690), however, plays an important role in granting a wider access for these students to be involved in the use of literary and artistic works in their education.



**Fig. 4.1: A distribution of Students by their programme based**

In figure 4.1, it is realised that out of the 500 student respondents, 62% (n=310) studied science based programmes whilst 38% (n=190) studied arts/humanities based programmes, as there are more science based programmes, at the Kwame Nkrumah University of Science and Technology than the arts/humanities.

The fact that 62% of the Student respondents studied science based programmes and 38% studied arts/humanities based programmes implies that we have more Students who depend on various literary and artistic information resources such as journals, textbooks, articles, encyclopaedias, dictionaries, directories, reports, diagrams and lecture notes in the sciences than those who depend on such information resources in the arts/humanities. But whatever the case may be, the variations in the number of Students who depend on these information resources, in their academic pursuits at the University, may ultimately have various impacts on publishers, authors and their works. In a situation like this, authors can only enjoy the economic and moral value of their works when copyright awareness is viewed seriously in academic institutions. Although, according to Kawooya (2007 as cited by Omoba, 2009) copyright establishes public interest in literary and artistic creations, including the use of knowledge-based products for scholarship and research without resorting to the right-holder. Omoba (2009) also said users of such works must, however, recognise and acknowledge the rights of the authors. This is very important as long as Students continue to use the works of authors and publishers in their academics, thus if we want to reap the full benefits of copyright.

Darkey and Akussah (2008) reiterated that knowledge is power and universities are globally considered as places where knowledge is created and imparted into individuals. The same source also revealed that academic libraries play a vital role in universities' quest for academic excellence by ensuring access to systems of knowledge and information relevant to the pursuit of enquiries and studies by Students. The diagram below reveals the forms and some identified sources where Students obtain information for their academic works through the use of literary and artistic works.

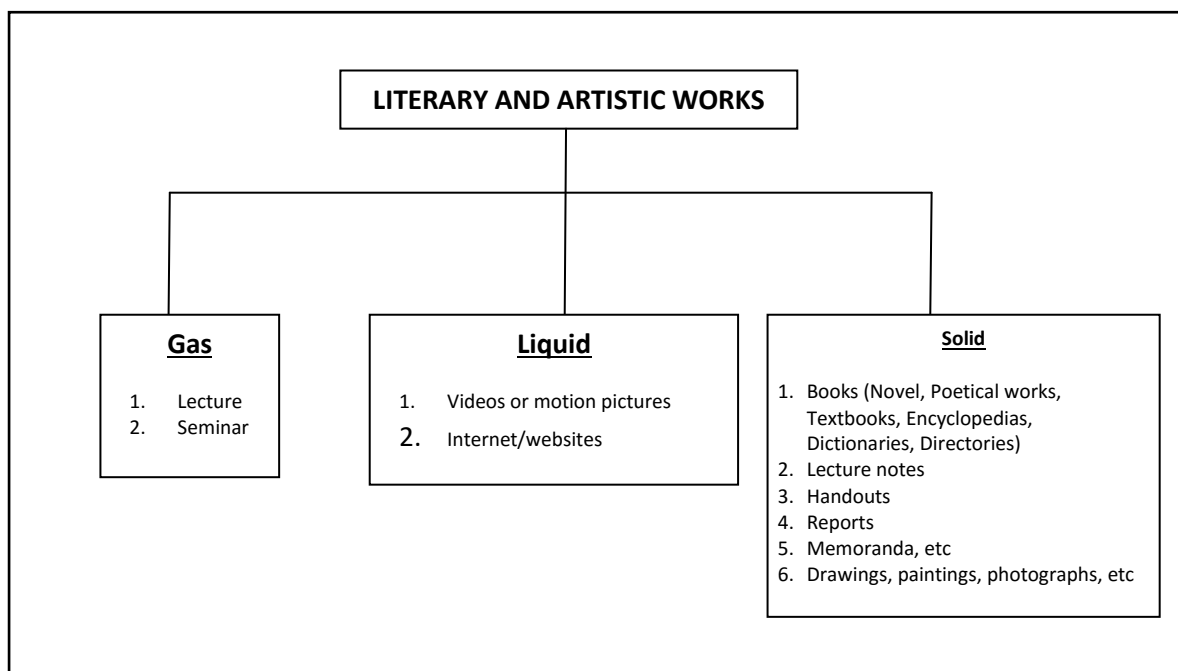


Diagram from researcher's own source

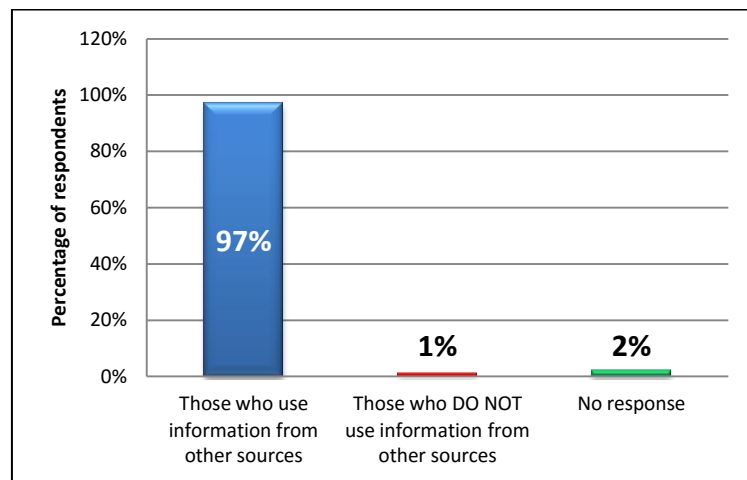
**Fig. 4.4: Form and sources of literary and artistic works**

Some of these information are the kind of:

1. *Information obtained in a form of gas* – this includes the kind of information that the Students obtain in verbal words such as at lectures and seminar presentations.
2. *Information obtained in the form of liquid* – the kind of information which the Students perceive in a vision where the same information is transported from one place to another or be presented at different places at the same time as in the flow of a river such as in motion pictures or videos (e.g. the video of Julius Caesar). They also obtain information in texts as liquid when they cut (fetch) the text from their original sources and paste them into another. For instance, information from internet or websites.
3. *Information obtained as solid* – this include the kind of information that the Students obtain from written or printed hard copy of materials such as books, newspapers, journals, drawings, paintings, photographs, etc.

The figure below shows that nearly all the student respondents, representing 97% (n=485) fall within the domain those who use literary and artistic works in the various forms and sources, as mentioned in Fig. 4.1, to enrich their academic works. This means, the Students use people's expressions of ideas or words which The Library, Durham College and OUIT (2011) acknowledges that they obtain from books, articles and websites etc. to support their research papers, lab reports or any other type of academic assignments. The publication by The Library, Durham College and OUIT (2011), however, warned that when using someone's information, Students must indicate where that information came from (thus, credit must be given where credit is due). Therefore, failure to do so results in committing academic plagiarism (Elliott, 2010) and according to the interview conducted, plagiarism in any form is a serious offence at the Kwame Nkrumah University of Science and Technology. However, in order to avoid this academic dishonesty, it is important for the Students to be aware that

they have the obligation to properly reference their research papers, lab reports or any other type of academic assignments.

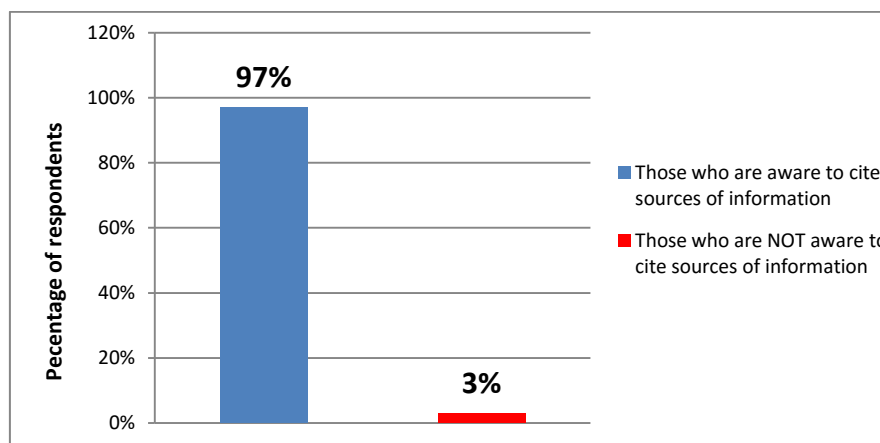


**Fig. 4.5: The use of literary and artistic information among Students**

### The “fair” use of the permitted use principle

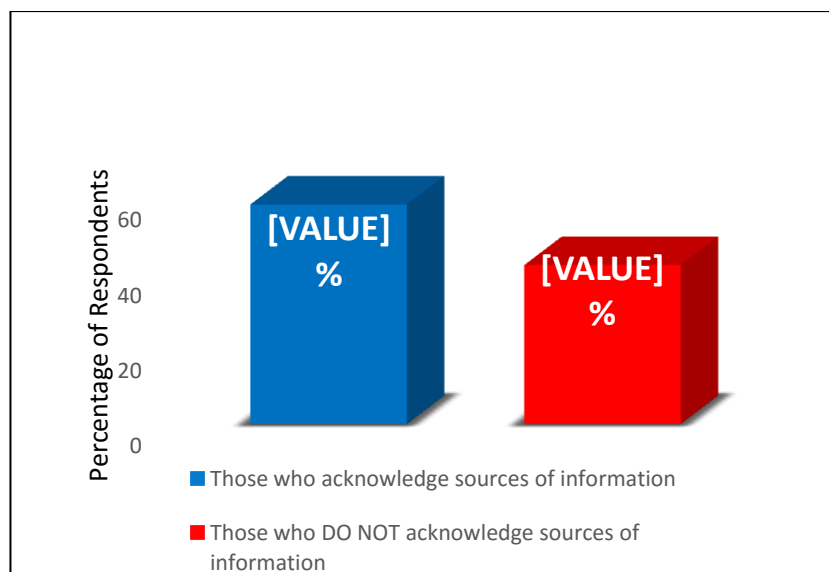
As discussed earlier, many educators interpret *fair use* as freedom to use copyrighted materials including literary and artistic works as long as their use is restricted to instructional purposes. At this point, we need to agree with Starr, (2010) find out, is the permitted use a license to abuse the use of copyrighted materials? Section 19 of the Copyright Act, 2005 (Act 690) further gives the condition under which permitted use of a copyrighted material is considered to be “fair” or permitted use under subsections (1) (2) and (3). The act acknowledges that this exemption is not extend to reproduction in the form of reprography of a whole or of a substantial part of a book or a database in digital form, except it is supported by a sufficient acknowledgment or indication of the source and the name of the author. Again, this confirms that the permitted use an absolute exemption from copyright infringement.

In this case, the study revealed that most of the Students, thus 97% (n=485), expressed that they are aware that they have to provide sufficient acknowledgment or indication of the source and the name of the author of quotations used in their academic works, as seen in the figure below.



**Fig. 4.6: Students’ awareness of providing sufficient acknowledgment**

We can therefore expect, based on the facts in fig. 4.6, that majority of the Students have the culture of providing sufficient acknowledgment or indication and the name of the author of quotations or the source they used in their works. But the question is; does it really reflect the true nature of the situation at all?



**Fig. 4.7: The Practice of providing sufficient acknowledgment among Students**

Inferring from fig. 4.6 and fig. 4.7, one can now easily realise the relationship between the number of Students who ARE AWARE that they have to credit sources of information they use in their academic work and the number of Students who ARE NOT AWARE as against the number of Students who were found to practically providing sufficient acknowledgment to sources of information they use in their academic works and those who DO NOT. Out of the 97% Students who said that they are aware of providing sufficient acknowledgment to sources of information they use in their academic works, 58% were found to practically do so. We can see from fig. 4.7 that there was an increase in the number of people who said they are aware that they have to cite sources of information they use when they actually DO NOT do so.

Whatever the case is or may be, citation or referencing of sources of information used in students' academic works is very important as confirmed by the Nottingham Trent University, (2010) in the three reasons given, including

1. To acknowledge other writers.
2. To demonstrate the body of knowledge upon which a research is based.
3. To enable all those who read the materials to locate its sources easily.

This means, citation or referencing is the way through which sufficient acknowledgement is given and sources of information used in various course works and research papers, credited. In order to achieve the objective to the permitted use principle

## CONCLUSION

The fact that nearly all the student fall within the domain of those who use literary and artistic works, in their academic works, is an indication the permitted use principle enshrined in



section 19 of the Copyright Act, 2005 (Act 690) plays an important role in granting a wider access for students' involvement in the use of literary and artistic works in education.

However, we can therefore expect majority of the Students to have the culture of providing sufficient acknowledgment or indication of the source and the name of the author of quotations they used in their works, to achieve the purpose of permitted use, to create a balance between the author and the users of their work through its system of exceptions and limitations. But since, out of approximately the same percentage of students who expressed their awareness to provide sufficient acknowledgment, only 58% students were found to be practically involved in the practice, we can therefore conclude that the practice of proper or "fair" utilisation of literary and artistic work in education is not up to the level expected among the students at the Kwame Nkrumah University of Science and Technology.

Nevertheless, we need to be mindful of the fact that the permitted use principle is not an absolute exemption from copyright infringement as indicated in section 19 subsection (2) and (3) that this exemption is not extend to reproduction in the form of reprography of a whole or of a substantial part of a book or a database in digital form, except it is supported by a sufficient acknowledgment or indication of the source and the name of the author of quotations.

## REFERENCES

- Apple Computer, Inc. (2006). Copyright Overview. *Apple Education*. Retrieved January 6, 2011, from [images.apple.com/support/itunes.../iTunes\\_U\\_Copyright\\_Overview.pdf](http://images.apple.com/support/itunes.../iTunes_U_Copyright_Overview.pdf)
- Ashok, A. (2010). Economic Rights of Authors under Copyright Law: some judicial trends. *Journal of Intellectual Property Rights*. Vol. 15. pp. 46-54. Retrieved January 14, 2011, from [papers.ssrn.com/sol3/papers.cfm?abstract\\_id=2401001](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2401001)
- Beebe, B. (2008). An Empirical Study of U.S. Copyright Fair Use Opinions. *University of Pennsylvania Law Review*. Vol. 156. No. 3. Retrieved October 13, 2010 from [https://www.google.com.gh/?gws\\_rd=ssl#q=An+Empirical+Study+of+U.S.+Copyright+Fair+Use+Opinions](https://www.google.com.gh/?gws_rd=ssl#q=An+Empirical+Study+of+U.S.+Copyright+Fair+Use+Opinions)
- Bosumprah, B. (2009). *The Rights and Responsibilities of the Media under the Copyright Law*. Retrieved November 15, 2010 from <http://opinion.myjoyonline.com/pages/feature/200907/33396.php>
- Crews, K.D. (2006). Copyright Law for Librarians and Educators: Creative Strategies and Practical Solutions. *American Library Association*. Vol. 3. p. 192. Chicago, IL.
- Darkey, E. M. and Akussah, H. (2008). Academic Libraries and Copyright Issues in Ghana: The University of Ghana in Focus. *International Journal of Legal Information*: Vol. 36: Issue 3. Article 5. Retrieved January 14, 2011 from [scholarship.law.cornell.edu/cgi/viewcontent.cgi?article=1152...ijli](http://scholarship.law.cornell.edu/cgi/viewcontent.cgi?article=1152...ijli)
- The Library, Durham College and OUIT. (2011). *APA Citation Style: A Guide to Bibliographic Citation*. The Library. Durham College and UOIT. Retrieved October 20, 2011, from [www.durhamcollege.ca/wp-content/uploads/apa.pdf](http://www.durhamcollege.ca/wp-content/uploads/apa.pdf)
- Elliott, J. (n. d.). *Academic plagiarism definition*. e How. Retrieved October 20, 2010, from [http://www.ehow.com/about\\_6704397\\_academic-plagiarism-definition.html](http://www.ehow.com/about_6704397_academic-plagiarism-definition.html)
- Ghana: Copyright Act, 2005 (Act 690) – WIPO. Retrieved January 14, 2011, from [www.wipo.int/clea/en/details.jsp?id=1789](http://www.wipo.int/clea/en/details.jsp?id=1789)
- Hall, S. (2010). *Effects of Plagiarism on Education*. Retrieved October 20, 2010, from [http://www.ehow.com/list\\_6075742\\_effects-plagiarism-education.html](http://www.ehow.com/list_6075742_effects-plagiarism-education.html)

- Kawooya, D. (2007). Copyright and Access to e-Resources in Africa's Education and Research Contexts: the case of selected Ugandan Institutions. *International Fellowship Program*. Retrieved December 10, 2011, from [www.policy.hu/kawooya/documents/Kawooya\\_IPF\\_Study2006Final.pdf](http://www.policy.hu/kawooya/documents/Kawooya_IPF_Study2006Final.pdf)
- Nottingham Trent University, (2010). *Citing References, 8<sup>th</sup> edition*. Libraries and Learning resources. Retrieved December 10, 2011, from [http://www.bris.ac.uk/library/using/international/citing\\_notttrent](http://www.bris.ac.uk/library/using/international/citing_notttrent)
- Omoba, O. R. (2009). Copyright Law: Influence on the Use of Information Resources in Nigeria. *Library Philosophy and Practice*. Retrieved December 1, 2011 from [www.webpages.uidaho.edu/~mbolin/omoba.htm](http://www.webpages.uidaho.edu/~mbolin/omoba.htm)
- Osman, I. (2010). *The Scope of Copyright Law*. Retrieved October 29, 2011, from [http://cfl.eifl.net/cn/Module\\_3:\\_The\\_Scope\\_of\\_Copyright\\_Law](http://cfl.eifl.net/cn/Module_3:_The_Scope_of_Copyright_Law)
- Starr, L. (updated 2010). Education World: Is Fair Use a License to Steal? *Education World*. Retrieved January 14, 2011, from [www.educationworld.com/a\\_curr/curr280b.shtml](http://www.educationworld.com/a_curr/curr280b.shtml)
- Trochim, W. M.K. (2006). *Research Methods Knowledge Base*. Retrieved May 6, 2011, from <http://www.socialresearchmethods.net/kb/sampnon.php>