

Lecture Capture and Lecturecast : IP implications

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Recording lectures and then making the recordings available and re-using them is becoming increasingly important as a means of improving student access and also achieving the maximum value from teaching resources.

Issues to consider

There are legal issues relating to recording lectures and making them available, which need to be considered. There are three distinct issues:

1) Underlying Materials

These are the lecture notes, scripts, slides, hand-outs, video clips etc. used in a lecture. In order to incorporate underlying materials into a video (in any way that is not 'incidental' to the video itself), such as through a close-up, overlay or other mechanism, UCL will need permission from the owner of the rights in that material. UCL would also need the permission of the owner of copyright in a lecture 'script' to redeliver the lecture, whether for recording or otherwise.

2) Video Recording

Aside from the rights in the underlying materials, there are separate rights in the video recording itself. UCL will need permission from the owner of copyright in the video to copy it and/or to make it available.

3) Performers' Rights.

To the extent that a lecture constitutes a performance, the individual that delivers the lecture has certain rights. These rights include control over whether their performance is recorded, whether it can be copied and whether it can be made available to the public. UCL will need the permission of a 'performer' to record and distribute a recording of a lecture.

Default UCL Position

The UCL [Staff IPR Policy](#) sets out the basic position that regulates ownership of Intellectual Property Rights created by UCL employees.

UCL acknowledges the author of a work as the owner, save in limited circumstances. Rights in all teaching and academic material created by UCL staff, therefore, will remain owned by the individual member of staff that created it.

UCL does, though, automatically receive a licence from the owner to use those materials, regardless of format, for both academic and commercial purposes. In paragraph 8 of the Staff IPR Policy UCL is granted:

"...a free, unconditional, irrevocable, perpetual, non-exclusive worldwide licence to use, for academic and commercial purposes, academic and teaching materials in all formats (now known or yet to be devised), which are generated by members of staff arising out of employment by UCL".

Rights in Underlying Materials

The licence contained in the Staff IPR Policy will apply to any materials created during employment with UCL. This would likely enable UCL to reproduce those materials used in a lecture in connection with the video (i.e. on a website alongside the video or as more than an incidental part of the video itself).

If any underlying materials used in the lecture were not created in the course of employment with UCL, the reproduction and use of those materials will need to be properly licensed.

Rights in the Video Recording

If the video itself is produced and directed by an employee or employees of UCL, the licence set out in the Staff IPR Policy will apply to the video recording. This would enable UCL to reproduce the video (on the website or for other lectures, for example).

If non-UCL employees are involved in directing or producing the video, we will need to ensure that we are properly licensed by those individuals to reproduce and use the video. This could apply to contractors and/or external speakers.

Performers' Rights

In order to record a performance, the consent of the performer is required. UCL currently operates a policy of specific or deemed consent. This means that we either obtain specific written or verbal consent to a recording, whether in relation to an individual lecture or lectures in general, or performers are deemed to have consented by virtue of the fact that they have been informed that the lecture will be recorded and they do not oppose the recording. In both cases, it is prudent to keep a record of the consent either by way of the written consent itself or a note of the conversation or notification of the intention to record. In the case of the latter it is also necessary to maintain a process for recording any objections.

Property rights in performances belong to the performer under the UCL Staff IPR Policy, which provides for Performers' Rights to be treated in exactly the same way as copyright. This means that UCL employees are the owners of rights in their performances but UCL is granted a licence to use the performance for academic and teaching purposes.

Related Issues

Moral Rights

Authors of copyright material and performers have certain "moral rights", including to be identified as the author or performer and to object to derogatory treatment (alterations that are prejudicial to the author/performer) of their work. Legally, the right to be identified as the author or performer only needs to be complied with if asserted by the author or performer although it is good practice to acknowledge authors and performers.

External speakers

External speakers will own the copyright in their underlying materials and performance rights in their performance, unless we have in place a contractual arrangement specifying otherwise.

It is essential to obtain and keep written permission to record and re-use the lecture, in order to cover both copyright in the speaker's own underlying material and also that person's rights in the performance.

There is a standard agreement form for this purpose (the "Lecturer consent form").

Data Protection

If the video contains footage of individuals, data protection issues may arise. Images of an individual (whether a video or still) may be classed a personal data if the individual can be identified from that image alone or in conjunction with other data. In that case we will need to ensure compliance with the provisions of the Data Protection Act 1998.

In order to process personal data, which would include editing, storing and/or distributing the video if it contains personal data, consent from the data subject is required. It is therefore important to notify any audience that the lecture will be filmed and to make it clear whether they will be filmed.

As a rule, audiences should not be filmed during the recording of any lectures at UCL. If filming is to take place, audiences should be informed of that verbally, by specific written notices and/or notices posted in prominent places.

Third Party Materials

UCL will need permission to use copyright works belonging to others in lectures. It follows that recording underlying materials that we do not have permission to use is not permitted.

There are exceptions under UK copyright legislation which, depending on the circumstances, may be used to justify the inclusion of extracts from third party copyright material within a lecture, but they are limited in scope.

The most relevant is the exception in Section 32 of the Copyright, Designs and Patents Act 1988 (CDPA), covering the use of material for "illustration for the purpose of instruction". The exception in Section 30 of the CDPA, covering Quotation for criticism, review or other purposes may also be relevant. Both those exceptions are subject to the "fair dealing" test, which is an important feature of UK copyright law. See [here](#) for further information from the UCL Library on Copyright legislation, the exceptions to copyright and "fair dealing".

The decision to record the lecture and to store the recording for re-use in different contexts changes the copyright situation. The exceptions which justified the inclusion of third party material in the live lecture are less likely to apply in the context of recording a lecture incorporating that material which will then be stored and re-used in different contexts.

Best practice is that any underlying materials – images, film clips, etc – where the copyright belongs to a third party should not be recorded or used in the recording unless permission is obtained. An alternative approach is to use only materials which are licensed for re-use, such as those bearing a Creative Commons (CC) licence ([further information on CC licences](#)) or from an Open Educational Resources (OER) website. For further information on facilities to record lectures, etc. at UCL please refer to the [Lecturecast pages](#).

If you have further questions please contact Copyright@ucl.ac.uk