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Promulgating Knowledge and Managing Risk

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PROMULGATING KNOWLEDGE ...

AND MANAGING RISK
"to promote the Progress of Science and useful Arts"

US Const., Art. 1, s.8, cl.8
FAIR USE

ONE OF SEVERAL BALANCING DOCTRINES
as copyright has expanded

... so has fair use
Authors Guild v. HathiTrust
5 of 6 uses are educational

1. education-related 90%
2. "news reporting" 10%
The fair use of a copyrighted work, including such use by reproduction in copies or phonorecords or by any other means specified by that section, for purposes such as criticism, comment, news reporting, teaching (including multiple copies for classroom use), scholarship, or research, is not an infringement of copyright. 17 USC 107
AGE OF ANXIETY
• specific safe harbors! 110(1), 110(2), 108
• special rates for college radio!
• DMCA anticircumvention exemptions!
• fair use!
• ... and of course ... the biggest of them all :}
SOVEREIGN IMMUNITY

11TH AMENDMENT PROTECTS STATE AGENCIES
CONSIDER THESE SCENARIOS

- print PDFs on faculty CMS or ereserves for course use
- streaming music & video from the library for course use
- digitizing for disability access by individual students
- faculty papers on websites & institutional repositories
CONGRATULATIONS

YOU ARE A RISK ASSESSOR.
RISK MANAGEMENT

MOVING FROM ASSESSING TO MANAGING
RISK MANAGEMENT

- You can't reduce risk of being sued to zero.
- You don't want to, anyway, because MISSION.
- Flexibility & fact-sensitivity in analysis is key.
- Responsiveness will resolve vast majority of pro...
- Believe in the mission: Education is a compelling...
(RE) CONSIDER THESE SCENARIOS

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TO BOLDLY GO ...