

THE UNIVERSITY OF HONG KONG LIBRARIES

Report on the Sale of HKU Theses on Amazon and Other Websites

Background

In February, 2017 it came to the attention of the Libraries that a number of HKU theses had become available for sale on Amazon without the permission of the author or the University. By mid-March 2017 it was apparent that these were not isolated cases and that Amazon was not the sole provider of these online sales. The Libraries sent take-down notices but these were either ignored or queried as to whether the Libraries is “the rights owner or authorized to act on the rights owner's behalf”.

On March 20, 2017 Creative Media Partners, LLC, parent company of Open Dissertation Press, the commercial publisher of the theses, wrote an open letter to the University of Hong Kong and the University Libraries after there had been local media coverage and considerable chatter on sites such as Facebook. In this letter Creative Media Partners affirmed the company’s reputation and stated they have never knowingly violated anyone’s copyright” and that they republish works that appear “under a Creative Commons license that permits commercial use”. He insisted, in his correspondence, that HKU cease issuing take down notices or requesting others to issue take down notices as it would be “damaging our reputation with our vendors and retail partners”.

Resolution

The Creative Commons licensing issues were of key concern in this matter as these had varied over time as they relate to HKU Theses available on the Scholars Hub. For a short period in 2016 (October 6 – December 14) a CC-BY 3.0 Hong Kong license was assigned, erroneously omitting the NC (non-commercial) component. This was immediately rectified when noticed. In any case HKU cannot give commercial rights for intellectual property it does not own. This was always made clear as access to the HKU Scholars Hub theses and the permission to download them have always been intended for non-commercial purposes and such intent was always made explicit through the acknowledgement and acceptance screens for off campus downloads as well as on each thesis cover page where “The author retains all proprietary rights, (such as patent rights) and the right to use in future works” appears. Following email exchanges, Creative Media Partners recognized and stated in a March 22, 2018 email that “students only give noncommercial rights to HKU for their dissertations” and “Your email confirms to us your intention, and your policy with respect to your students that these be noncommercially used.” Resulting from this, Creative Media Partners confirmed that they “decided to remove from distribution and manufacturing **ALL** HKU dissertations” and “no dissertations that were available for purchase are currently able to be produced or delivered” and “as of yesterday, there will be no manufacture or distribution of any HKU dissertation by us”.

Continuing issues

Creative Media Partners is not a front of house seller. As such they use a distribution partner to ensure that their products receive the widest possible coverage in order to maximize their sales through a print-on-demand business model. This means that books are not produced until they have been purchased. As Creative Media Partners' distribution partner covers some 50+ online booksellers, including Amazon, the practices of these sellers varies greatly in terms of removing items from sale. Typically, however, and as stated by Creative Media Partners in their 22 March, 2017 email "Amazon does not immediately list it as unavailable. They first list it as available in 1-2 months, and only when it is clear to them that it is impossible to get the book, do they change their listing to unavailable." It then may take even further time to have the item completely removed from the website.

This certainly appears to have been the case as our regular monitoring of the bookseller websites has borne out (see Appendices 1 and 2). These tables show that the total volumes viewable on the sites is reducing. As an example, our first search of Amazon US in March 2017 showed 22,742 titles were all available whereas, in September 2018, this number has reduced to 26 that are listed as available and 5,974 out of stock. Similarly for Amazon UK, 22,758 were originally available and this has reduced to just 2 listed as available and 572 out of stock in September 2018. While some still appear "available" we were assured by Creative Media Partners, LLC that they "are monitoring and following up to have listings removed as efficiently, and quickly as possible. As we have stated, no dissertations are able to be produced pursuant to any order that may be attempted by any retailer". Recent correspondence with the company, however, has not been forthcoming. It is clear that with time, both these unavailable as well as available theses that are viewable will all reduce to zero (i.e. no listing whatsoever). What remains unclear is precisely how long this will actually take, though takedowns appear to have gathered pace in recent months. Based on the rate with which out of stock items in Amazon US have been removed, this will likely take between 6-7 months or March/April 2018. The Library will continue to monitor these takedowns and take action whenever possible.

Remedies

While the issue of Creative Commons and the HKU IPR policy as it relates to theses, may have been a factor in Creative Media Partners' decision to republish HKU theses, it was also the apparent relative ease with which the large scale capturing/downloading of 22,000+ theses from the Scholars Hub had further enabled this and raised concerns within the HKU community.

In response to the immediate issue, direct full text downloading of theses was disabled on 3 March 2017. An online form was introduced on 10 March 2017 to meet requests for full text theses. On 3 April 2017, an auto-response form was launched that generates a link to a requested thesis enabling a requester to have immediate access after entering their name, email address and accepting the terms of use. Included in this process is a mechanism (reCAPTCHA) that

prevents automated access by computer programmes (Appendix 3). This mechanism requires human visual interpretation which makes it considerably more difficult to perform a mass download of theses without individually and knowingly accepting the Terms of Use of each of the 22,000+ theses.

The Board of Graduate Studies has agreed to extend the maximum restriction period for access to RPg theses from 3 to 5 years. This embargo is a key mechanism to avoid re-use of student's data and to restrict publications arising from the student's thesis and research without consent, albeit for a limited yet critical period.

The University's Intellectual Property Rights Policy, while previously only accessible to staff and students, was changed to public-access <http://www.rss.hku.hk/contracts/ipr> in late March 2017, further enabling external parties to be aware of, and comply with, this Policy. The University may also consider changing the Policy to make clear that HKU has agency rights over non-commercial use.

Open access to HKU content through the Scholars Hub remains one of HKU's key knowledge exchange initiatives. As such, the Hub remains a significant tool in achieving this goal. The overall management and decision making surrounding the Scholars Hub was previously the domain of a single individual in the Libraries, now departed from the University, one of whose key principles was to maximize open access to the University's intellectual output, including its theses. The management of the Scholars Hub is now under the purview of a library committee of invested individuals led by the Deputy Librarian and answerable directly to the Librarian.

Concluding remark

While the University and the Libraries have sought to minimise the risk of unscrupulous use of our intellectual, digital content, (and we remain confident that the new approach to accessing theses represents significant improvement on the previous method) we must still bear in mind that, as recent high profile global computer incursions can attest, those with a strong motivation may still seek to circumvent technical, legal and ethical boundaries. As such we will remain vigilant and receptive to new technologies and threats that may pose similar challenges in the future.

Peter Sidorko
Librarian
4 October, 2018.

Appendix 1: Monthly snapshot of HKU theses on Amazon (US and UK) as at **20 September 2018**.

| | Amazon US | | | Amazon UK | | |
|-----------------|---------------|--------------|---------------|---------------|--------------|---------------|
| Date | In stock | Out of stock | Total | In stock | Out of stock | Total |
| 20170327 | 22,742 | 0 | 22,742 | 22,758 | 0 | 22,758 |
| 20170427 | 6 | 22658 | 22664 | 55 | 15704 | 15759 |
| 20170526 | 7 | 22612 | 22619 | 55 | 15989 | 16044 |
| 20170628 | 4 | 22571 | 22575 | 53 | 16397 | 16450 |
| 20170728 | 10 | 22517 | 22527 | 50 | 16680 | 16730 |
| 20170829 | 17 | 22477 | 22494 | 58 | 16949 | 17007 |
| 20170926 | 11 | 22478 | 22489 | 51 | 16992 | 17043 |
| 20171024 | 12 | 22450 | 22462 | 52 | 17130 | 17182 |
| 20171128 | 19 | 22422 | 22441 | 52 | 16930 | 16982 |
| 20171228 | 27 | 22404 | 22431 | 2 | 479 | 481 |
| 20180130 | 28 | 19972 | 20000 | 2 | 529 | 531 |
| 20180227 | 17 | 19983 | 20000 | 2 | 533 | 535 |
| 20180327 | 21 | 19979 | 20000 | 2 | 533 | 535 |
| 20180628 | 29 | 6971 | 7000 | 2 | 539 | 541 |
| 20180920 | 26 | 5974 | 6000 | 2 | 572 | 574 |

Appendix 2: Latest list of online sellers (other than Amazon)

| | 20 September 2018 | |
|------------|-----------------------------------|---------------------------------|
| No. | Retailer name | No. of HKU theses titles |
| 1 | Wisepress.com | 9778 |
| 2 | Scribd | 210 |
| 3 | Ubuy | 8 |
| 4 | chloebooks.tk | 5 |
| 5 | ABE-IPS | 3 |
| 6 | fionabooks | 3 |
| 7 | OregonPDF in Health & Performance | 2 |
| 8 | Taylorbooks | 3 |
| 9 | Adlibris | 1 |
| 10 | idlebooks | 1 |

| | 13 April 2017 | |
|------------|------------------------------|---------------------------------|
| No. | Retailer name | No. of HKU theses titles |
| 1 | Schweitzer Fachinformationen | 43,888 |
| 2 | ABE-IPS | 43,888 |
| 3 | bokus.com | 43,886 |
| 4 | Saxo | 43,770 |
| 5 | Aladin Communication Inc. | 38,998 |
| 6 | Wisepress.com | 9,778 |
| 7 | Universia | 2,715 |
| 8 | AbeBooks | 194 |
| 9 | wheelers | 24 |
| 10 | Alibris | 20 |
| 11 | Ubuy | 10 |
| 12 | New Books | 7 |
| 13 | FIRMA BIKES LIVROS EPUB | 5 |
| 14 | Adlibris | 2 |
| 15 | BookLore | 1 |
| 16 | Loot Online (Pty) Ltd | 1 |
| 17 | Munro's Book Store | 1 |
| 18 | Pages on Kensington | 1 |
| 19 | Pass the Word | 1 |
| 20 | Lighthouse Bookstore | 1 |

Appendix 3: Requesting a thesis: Additional protocols.

The screenshot shows the HKU Scholars Hub website. At the top, there is a navigation bar with links for Home, Publications, Researchers, Organizations, Grants, Details, Theses, Details, and Community Profiles. The main header includes the HKU logo and the text "The HKU Scholars Hub 香港大學學術庫". A "HELP" button and login options for "HKU Login" and "Guest Login" are also visible.

The main content area features a section titled "HKU Libraries Theses and Dissertations". Below this, there is a "Terms of Use" section with the following text: "Unless otherwise specified, electronic theses in the HKU Scholars Hub are under the [Creative Commons Attribution-NonCommercial-ShareAlike 4.0 International License](#). By agreeing to the terms of use, you also acknowledge that the author retains the right to use the work in future works."

The registration form includes the following fields and options:

- Mandatory fields:**
 - Name:** peter sidorko
 - Email:** peters@hku.hk
- I have read and agreed to the Terms of Use and I have reviewed the online Permissions page.

A CAPTCHA image verification overlay is present in the center of the page. The overlay has a blue header that reads "Select all images with motorcycles". Below the header is a 3x3 grid of nine images. The images show various scenes: a street with a yellow school bus, a street with parked motorcycles, a road with a motorcycle, a street with a motorcycle, a road with a motorcycle, a road with a motorcycle, a street with a motorcycle, a street with a motorcycle, and a street with a motorcycle. At the bottom of the overlay are icons for refresh, headphones, and information, along with a blue "VERIFY" button.