

Debate

Boundless Learning's Alternative Textbook Offerings

ISSUE: Is it fair to offer a reconstruction of an original textbook?

It is no secret that pursuing an education is a costly endeavor. Not only do students have to pay the increasing costs of tuition, but they must also purchase expensive textbooks for each of their classes. Since 1978 the percentage change in the Consumer Price Index (CPI) of textbooks has risen to 812 percent. Some students are opting not to buy textbooks because of the high price tag and are underperforming in class, while others are making the purchases and increasing their total student debt. The Internet has allowed publishers to offer their educational products at a lower price, making them more accessible and flexible to adapt for courses. However, this new digital content comes with an expiration date, so students are unable to resell their books and, if digital, there is no used version of the textbook.

Boundless Learning is a small startup that aims at solving this issue of expensive textbooks for students. They offer free content to students as a substitute for traditional textbooks. The content is sourced from Open Educational Resources (OER), which is publicly available information, and is arranged according to the outline of the textbook the student has been assigned. The student can go to the Boundless website, search for their assigned text, and be given a table of contents that mirrors the text. The links on the table of contents offer the content of the chapters and sections, which is compiled from public sources. Boundless is then able to offer this content for free to students. In addition to offering the content for free, Boundless aims to tailor the way students consume textbooks. Rather than having a long textbook to read, students can access and consume the information in a way that is similar to how they consume other information on the Internet and social media – in a concise, digestible format. But the content often consists of definitions and short discussions, and some of the content in the original book is not available.

While the company was still privately testing their product with approximately 1,000 universities, they were sued for copyright infringement, false advertising, and unfair competition. Pearson Education, Cengage Learning, and Bedford, Freeman, and Worth Publishing Group (MacMillian Higher Education) are among the publishers filing the lawsuit. They claim that Boundless, while they may not be copying their content word-for-word, is stealing the substance of their work found in the layout of the material. The publishers also claim that the work that goes into publishing a textbook is not finished once it is published. Developing the content and websites to support student learning is work that occurs over a period of many years. Additionally, money is invested in the expert authors who write the books as well as in the development of support materials for instructors. Another argument publishers make against Boundless is that the firm is taking the results of a deliberate creative thought process of the authors and the publishing company when they decompose their layout and reduce it to a few concepts. The publishers also take issue with the fact that the original covers of the textbooks are displayed on the website, which misleads students into thinking that they are getting the exact information from the original book. Boundless, on the other hand, maintains that they are using only the facts and ideas of the topics, which cannot be copyrighted. However, they are promoting that their book is a replacement for the original book.

This material was developed by Michelle Urban under the direction of O.C. Ferrell and Linda Ferrell. It is provided for the Daniels Fund Ethics Initiative at the University of New Mexico and is intended for classroom discussion rather than to illustrate effective or ineffective handling of administrative, ethical, or legal decisions by management. Users of this material are prohibited from claiming this material as their own, emailing it to others, or placing it on the Internet. Please call O.C. Ferrell at 505-277-3468 for more information. (2013)

Joshua Kim of Inside Higher Ed analyzed the content of Boundless' products and estimated that 80 percent of the content they offer is as good as that of the original texts. He also stated that the content of introductory textbooks is not copyrightable, but the layout of the content is. However, he ponders the strength of copyright infringement in the textbook industry, as most introductory textbooks of the same topic all look very much alike. Leaving the copyright issue aside, there is another issue that concerns the quality of Boundless' content. Upon examining a reconstruction of a leading marketing textbook, the author felt that the reconstruction was so bad that the student using the source could be misled into believing that they could pass a test on the original content. In reality, many of the definitions and concepts were different and, in some cases, additional content was provided beyond the original text. The student could fail to master the required concepts in the original book.

In spite of their early legal dealings and many critics, Boundless Learning continues to fight against the allegations. Most recently, they have made a request for a jury trial on this issue. Boundless has also recently rewritten their material so there is less resemblance to the original texts, which could make their books less useful for the student who has to pass a test. Boundless Learning is associated with Creative Commons, a licensing company lending them some credibility, and they have \$10 million in investor funds to continue their work. From a business perspective, many wonder how long a company like Boundless Learning can stay in business if it does not have revenue. While the company plans to sell supplemental materials for a nominal fee, the experience of Flat World Knowledge, for example, has shown that students are not likely to purchase this extra material after offering online books for free. In the end Flat World Knowledge had to start charging for all of their products in order to survive.

There are two sides to every issue:

- 1. Boundless Learning should have the right to reconstruct existing textbooks and promote that the books are a good substitute for the original text.*
 - 2. Boundless Learning should not be allowed to reconstruct copyrighted textbooks because it violates fair competition and could mislead students into thinking they are sufficient and accurate content for their courses.*
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Sources:

- Rip Empson, "Publishers Sue As Boundless Learning Grabs \$8M For An Open Alternative To Textbooks," Tech Crunch, April 5, 2012, <http://techcrunch.com/2012/04/05/publishers-sue-as-boundless-nabs-8m/> (accessed July 8, 2013).
- Mark J. Perry, "Update on Boundless Learning, and the 'Open Educational Resources' Movement, Which Could Upend Textbook Publishers," *www.aei-ideas.org*. January 25, 2013, <http://www.aei-ideas.org/2013/01/update-on-boundless-learning-and-the-open-educational-resources-movement-which-could-upend-textbook-publishers/> (accessed July 8, 2013).
- Mark J. Perry, "Hear That Hissing Sound? It's the Textbook Bubble Deflating," AEIdeas, November 20, 2012, <http://www.aei-ideas.org/2012/11/hear-that-hissing-sound-its-the-textbook-bubble-deflating/>. (accessed July 8, 2013).
- Mark J. Perry, "The College Textbook Bubble and How the 'Open Educational Resources' Movement is Going Up Against the Textbook Cartel," AEIdeas, December 24, 2012, <http://www.aei-ideas.org/2012/12/the-college-textbook-bubble-and-how-the-open-educational-resources-movement-is-going-up-against-the-textbook-cartel/> (accessed July 8, 2013).
- Jordan Crook, "The Boundless Open Textbook Initiative Has Evolved But Its Future Is Marred By Lawsuits," Tech Crunch, March 7, 2013, <http://techcrunch.com/2013/03/07/boundless-open-textbook-alternative-has-evolved-but-is-still-fighting-publishers-in-court-over-beta-product/> (accessed July 8, 2013).
- Ki Mae Heussner, "What Lawsuit? Boundless Learning Pushes Ahead With Free Textbook Platform," Gigaom, August 8, 2012, <http://gigaom.com/2012/08/08/lawsuit-be-damned-boundless-learning-pushes-ahead-with-free-textbook-platform/> (accessed July 8, 2013).

- Joshua Kim, "4 Thoughts About Boundless, Publishers, and the Lawsuit," Inside Higher Ed, August 27, 2012, <http://www.insidehighered.com/blogs/technology-and-learning/4-thoughts-about-boundless-publishers-and-lawsuit> (accessed July 8, 2013).
- Pearson Education, Inc., Cengage Learning, Inc., and Bedford, Freeman, & Worth Publishing Group, LLC, D/B/A Macmillan Higher Education v. Boundless Learning, Inc. No. 1:12-cv-01986-ALC (United States District Court for the Southern District of New York 2012).
- Curt Woodward, "Boundless Wants Trial in Copyright Lawsuit with Textbook Publishers," www.xconomy.com, February 14, 2013, <http://www.xconomy.com/boston/2013/02/14/boundless-wants-trial-in-copyright-lawsuit-with-textbook-publishers/> (accessed July 8, 2013).
- Alexander, "Boundless Still Being Sued by Publishers After Rewriting Textbooks," Textbook Affordability Project, March 15, 2013, <http://tap.usf.edu/news/boundless-still-being-sued-by-publishers-after-rewriting-textbooks/> (accessed July 8, 2013).
- Jake New, "Free-Textbook Company Rewrites Its Content Following Publishers Lawsuit," Chronicle, March 8, 2013, <http://chronicle.com/blogs/wiredcampus/free-textbook-company-rewrites-its-content-following-publishers-lawsuit/42809> (accessed July 8, 2013).
- Erin Griffith, "Boundless Challenges Textbook Publishers to Trial Over OER," Pandodaily, February 18, 2013, <http://pandodaily.com/2013/02/18/boundless-challenges-textbook-publishers-to-trial-over-oer/> (accessed July 8, 2013).
- Kyle Alspach, "Boundless Seeks to Shift Focus of Legal Battle with textbook Publishers," Boston Business Journal, March 7, 2013, <http://www.bizjournals.com/boston/blog/startups/2013/03/boundless-online-textbooks-legal.html?page=all> (accessed July 8, 2013).
- Boundless Learning website, <https://www.boundless.com/> (accessed July 8, 2013).
- Kevin Carey, "Never Pay Sticker Price For A Textbook Again," Slate, December 20, 2012, http://www.slate.com/articles/technology/future_tense/2012/12/boundless_and_the_open_educational_resources_movement_are_threatening_publishers.html (accessed July 9, 2013).