

# Back Talk — Violated or Elated?

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I don't know if we at the **University of Hong Kong Libraries** should feel violated or elated. At the moment I think we are feeling more the former than the latter.

In the spirit of the Open Web and the digital future, we made the decision several years ago to go electronic for theses and dissertations (<http://eid.lib.hku.hk/>). From then on most students were required to submit their theses (Hong Kong English for theses and dissertations) to us in electronic form. We also subsequently tried to communicate with all former students to seek their permission/acquiescence so that we could scan and put up digital versions of their theses. The program has been a smashing success. Borrowing statistics for the printed versions have gone down into the basement and the opposite has happened for their electronic versions.

Our most popular electronic dissertation, according to our Systems Librarian and Head of the Technical Support Team, **David Palmer**, is that of one time student and Hong Kong pop singer super star **James Wong's** "The rise and decline of cantopop" or, "粵語流行曲的發展與興衰." There have been 4,500 downloads since it was put online in 2003. So, this is cause for "elation" — right? Yes, of course but we recently discovered we should feel "violated" as well. One of **David's** staff members **Miss Tai Lum** recently checked **Google** (and several other like search engines) for the English and Chinese versions of this title and found 127 entries. Fifteen of these had the full text mounted on their sites. Another 25 had one or two chapters mounted as well. For the 15 which had the full text available, we found some, but not all, had made reference to our library as the source of the text.

Some staff members at our library feel angry and want to revise the click through caveats which readers must agree to when they enter this particular space as follows:

- 4. I agree that I will not mount these files on any server and will not further distribute them.

- 5. I agree that any citations that I make to these thesis files and titles will be to the authorized **University of Hong Kong** ones, e.g., the print ones held in the University Libraries, and online ones as mounted herein."

What do you think we should do? I thought before taking action I should take a look at what others had to say on the topic and was this a matter of what is legal or not, or was it a matter of etiquette — nice people do this or that, but they won't go to jail or be fined for their chosen course of action.

Since I am not a lawyer but am lazy, I surfed the Web and found "10 Big Myths about Copyright Explained" by **Brad Templeton**, the founder of **Clarinet**. (<http://www.templetons.com/brad/copymyths.html>). There are actually 11 myths explained but he explained he didn't want to have to change the title of this apparently frequently referred to page on copyright. I won't rehash all 11 points but will quote three:

- "These days, almost all things are copyrighted the moment they are written, and no copyright notice is required.
- Copyright is still violated whether you charged money or not, only damages are affected by that.
- Postings to the Net are not granted to the public domain, and don't grant you any permission to do further copying except **perhaps** the sort of copying the poster might have expected in the ordinary flow of the Net."

Based upon these three points, the 15 sites which have downloaded and uploaded **James Wong's** dissertation have at least violated his rights (he is now deceased). It doesn't matter that they, like our library, are giving free access to this work of scholarship and since we didn't say they could download and do whatever they choose with his and the work of the other 14,000+ thousand authors whose work is in our thesis database. At present our Website says:

"Before accessing this thesis, you must agree to these terms.

1. No commercial use of this thesis or any part of its content is allowed.
2. No uses are allowed except those for the purposes of scholarship or research.
3. I agree to use this thesis under the terms of the Hong Kong SAR Copyright Ordinance." ([http://sunzi1.lib.hku.hk/hkuto/agreement\\_form.jsp](http://sunzi1.lib.hku.hk/hkuto/agreement_form.jsp))

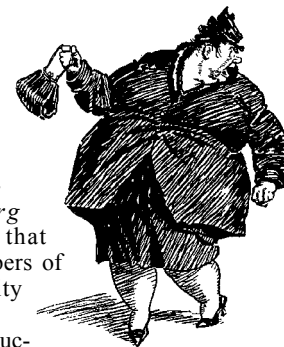
Based upon this wording, my guess is those who down and uploaded the **Wong** dissertation did so thinking "Since I won't charge anyone for using it and the purpose is for research (in its loosest sense), it is OK to do it." This is fairly logical thinking unless you have read **Templeton's** observations, e.g., download it for your own research but you don't have the right to upload it and share it with others.

Let's now turn to the matter of Web etiquette. Suggestions about what is proper behavior are of course highly subjective. A 2001 posting on the **UseNet Replayer** by **Cheri Stryker**

from the *dancingbones.org* list suggests that because members of that community all spend lots of energy producing images, those who want to post one of their images should "try to include in the filename either some initials or other recognizable code so that people who use the pictures later can keep track of where they got them. [and] When posting a finished piece of art, please credit the person who produced the original images..." Regarding downloading say to the person doing so to "DO NOT try to sell any of this stuff, in any way, either individually, or by putting it in a compilation and selling the compilation..."<sup>1</sup> In essence what is being suggested is the golden rule to treat others like you would like to be treated.

But where does all of this leave us at **Hong Kong University's Library**. Should we be elated that we have contributed to the Web and the world of pop music by allowing them all to download this thesis and its 14,000+ mates? Or should we feel violated, angry, and call the Internet police (if there were such)?

I think we cannot help but feel some of each emotion. I am leaning toward sending the existing downloaders emails asking them to provide proper attribution and to also strengthen the language in the click-through instructions stating that in the future readers **MAY NOT** download materials for further distribution. I think this is justified since while our students may have given us permission to put things up on the Web, we didn't ask, and I don't think they had in mind giving permission for 15 or 1,500 libraries and other organizations to make copies of their theses for posting on their sites. Unfortunately I am also considering assigning someone to go through the 4,000 plus pre-1923 **Google Book Select** entries in which the words Hong Kong appear to find full text materials for our own electronic collection. Can I forbid others to do what I want to do? What do you think we should do? Please drop me a line if you have an opinion <ferguson@hkucc.hku.hk>.



## Endnotes

1. **Stryker, Cheri** (2001) About the new, OT group, and its FAQ. Retrieved June 2, 2008, from **UseNet Replayer**, <http://www.usenet-replayer.com/faq/alt.binaries.multimedia.xena-herc.html>.