

June 2024

# Encouraging Flexibility in Our Approach to Copyright: An Interview with Nancy Sims

Sara Schumacher

*Texas Tech University, sara.schumacher@ttu.edu*

Nancy Sims

*University of Minnesota, nasims@umn.edu*

Follow this and additional works at: <http://online.vraweb.org/>

### Recommended Citation

Schumacher, Sara, and Nancy Sims. "Encouraging Flexibility in Our Approach to Copyright: An Interview with Nancy Sims." *VRA Bulletin* 51, no. 1 (June 2024). Available at: <https://online.vraweb.org/index.php/vrab/article/view/246>.

---

# Encouraging Flexibility in Our Approach to Copyright: An Interview with Nancy Sims

## **Abstract**

In this interview, Nancy Sims, Director of Copyright & Scholarly Communication at the University of Minnesota Libraries, delves into current topics in copyright and scholarly communication including open access, fair use, and artificial intelligence (AI). Her assured and succinct answers reveal the ways visual resources professionals can thrive within the changing legal and cultural intellectual property landscape by employing “flexible mindsets.” Sims acknowledges that the nuances within copyright law are difficult for humans to reckon with, but she finds hopeful paths forward even within the gray areas. We are all creators and users. Can that be our superpower as we advocate for equity and accessibility in our professional and personal lives?

## **Keywords**

Copyright, intellectual property rights (IPR), fair use, open access (OA), artificial intelligence (AI), interview, equity, accessibility.

## **Author Bios**

Sara Schumacher is the Architecture Image Librarian at the Architecture Library at Texas Tech University Libraries.

Nancy Sims is the University of Minnesota (UMN) Library’s subject specialist on copyright issues. Nancy is both librarian and lawyer, with long experience working in academic libraries, and is fascinated by the pervasiveness of copyright issues in modern life. Nancy's role at UMN is to help individuals and groups understand how copyright affects their work across all the breadth of creative outputs at a large University. At UMN and beyond, Nancy advocates for policies and practices that support sustainable scholarship, democratic information access, and wide public cultural participation.

As the Director of Copyright & Scholarly Communication at the University of Minnesota Libraries, Nancy Sims has been a strong advocate for copyright education and policies that promote equitable access and participation in knowledge production. Her expertise and perspectives have been an asset to emerging visual resources professionals as an instructor for the Summer Educational Institute (SEI), hosted jointly by the Visual Resources Association and the Art Libraries Society of North America. While Sims is a lawyer, her role is not usually to be any one person or entity's lawyer. Instead of legal advice, she brings to the table key considerations, contextual information, and questions based on her knowledge of the intricacies of both copyright law and cultural heritage and knowledge-based institutions.

This interview reveals Sims' ability to make the legal gray areas surrounding copyright seem less like daunting obstacles and more like creative problem-solving opportunities. By focusing on the humans in the equation, Sims asks us to be more flexible and open ourselves to ambiguity to find an equitable path forward. We are all creators and users. Can that be our superpower as we advocate for equity and accessibility in our professional and personal lives?

**Sara Schumacher (SS): If time and money were not factors, what would you want to learn how to do?**

**Nancy Sims (NS):** I'd like to learn more functional crafts, like joinery and forging. One of my favorite things on Instagram is international videos of people engaged in old skilled traditions like that – there are so many ways to fit wood together to make furniture, for example, and only some of them really get shared across international lines!

As a subset of that, I'm really interested in the human-powered versions of some of those crafts – sometimes because it looks a little less dangerous. For example, powered lathes scare me a little bit. But there are *human powered* lathes that look less scary, and woodturning looks *really* cool.

**SS: What skills, knowledge practices, or mindsets do you think we should be teaching higher education students about copyright and intellectual property?**

**NS:** One trap I see a lot of people getting caught in is thinking there must be clear lines and rules to follow. While in some ways I think there is a pretty widespread human tendency to have a hard time dealing with nuance, I think the problem is at least in part influenced by the increasing reliance on standardized metrics in K-12 education in recent decades.

But in copyright, intellectual property, and many other areas, laws and rules really don't work like that. There are almost always elements open to significant interpretation – and quite a few unanswered questions! Looking for established answers in copyright law is sometimes less important than figuring out new questions. Thinking flexibly, considering new perspectives, and interpreting things creatively are all important skills and mindsets for understanding intellectual property issues and making decisions throughout all areas of work in cultural organizations.

**SS: You have been working with emerging cultural heritage professionals through programs like SEI, can you speak to what excites you most about our changing profession?**

**NS:** I'm pleased to see the expanding commitment to exploring and confronting histories of extraction and exploitation, and especially the increased attention to repatriation of Indigenous peoples' cultural patrimony. I'm also excited about labor organizing in arts and cultural organizations – ideally, that could also help with some of the issues around who can afford to work in this sector.

**SS: How do you see professional organizations like the VRA advocating for more equitable access to visual information?**

**NS:** The VRA has done some effective advocacy around these issues in the past, such as through the [Statement on the Fair Use of Images for Teaching, Research, and Study](#).<sup>1</sup> That *Statement* directly affected practices at many organizations. Policy statements and weighing in on proposed legislation and high-level court cases are all very good ways to affect copyright and related laws and regulations in order to advocate for the public interest in these areas. Input from organizations really can shift legislation, litigation, and policy outcomes.

Professional organizations can also work to educate members and encourage the flexible mindsets I mentioned in a previous answer.

**SS: What is your favorite, underutilized place to find public domain or open access visual materials?**

**NS:** I don't know if my favorite example here is really underutilized, but I think it's been eclipsed by newer and flashier resources: [the Flickr Commons](#). Started in 2008, it's one of the earlier collaborations between cultural organizations and an outside platform (and at the time was semi-social media.) Oddly it's also one of the longer-lasting efforts!

The Flickr Commons lacks some of the more robust metadata of some later platforms, but I kind of like the more varied texture in descriptions. And the connections people have made in the comments is a great example of how public access to collections can increase the available information about the collections.

I also love that the Flickr Commons pioneered one of the first flexible rights labels: "No known copyright restrictions." Having a flexible statement like that available enabled more institutions to participate internationally – especially since institutional counsel were a lot more wary of providing public copyright information at the time.

**SS: With the increased media attention on [artificial intelligence] AI and legal and ethical implications, do you believe this will change attitudes about copyright and scholarly communications?**

**NS:** I think this is already changing attitudes – and I think more change may come. Unfortunately, I'm seeing more creators reconsidering using open licenses, and more people concerned about sharing their work at all. Attitudes about fair use also seem to be changing, kind of bimodally: some people seem to be leaning further towards "everything is fair use" and some towards "fair use must be much smaller and more limited than it has been." Right now, we're pretty early in the hype cycle around content models and other types of AI, and I think some of the folks caught up in the hype (often in more tech-focused work) are a little dismissive (and sometimes unaware) of some of the reticence and legitimate concerns in some creative communities.

**SS: Is there a project or research topic from your career that didn't work out the way you anticipated, but you still firmly believe was a good idea?**

**NS:** I did a research project early on in my time at [the University of] Minnesota, which did achieve one of my goals, but utterly surprised me in another way (and that surprise formed a key insight shaping my career.) It was a survey of what I thought was "copyright knowledge," aimed separately at University faculty and library employees. I had a theory that on average, library employees would outperform faculty (and my medium-rigorous data confirmed that.)

---

<sup>1</sup> Gretchen Wagner and Allan T. Kohl, "Visual Resources Association: Statement on the Fair Use of Images for Teaching, Research and Study," *VRA Bulletin* 38, no. 1 (2012), <https://online.vraweb.org/index.php/vrab/article/view/139>.

What was entirely unexpected was that the faculty group consistently raised citation or attribution as a copyright consideration – even though I hadn’t provided that as a multiple-choice option! They’d write it in, over and over, when I asked if they thought there were other considerations. And in some follow-up in-person interviews, some asked with concern why it hadn’t been listed in the multiple-choice options.

This was the first time I really understood how incredibly weighty citation and attribution are in the minds of most academics – it makes sense, it is a major part of the academic economy. But it’s also a real point of confusion, because US law doesn’t really consider citation or attribution except in pretty rare circumstances. It was key to realizing some of the places that academics’ copyright knowledge and comprehension gaps vary from some other groups, and also how much expectations and emotions can sway people’s reactions around copyright questions.

**SS: Do you have any thoughts about how we as professionals can lobby against corporate [open access] OA, the exploitation of open access by for-profit scholarly publishers?**

**NS:** This is hard, because for-profit publishers have done a really good job setting up a system where there is an “easy” way to [ensure] OA, and that’s “just pay this little fee.” (Of course, paying fees isn’t “easy” for many researchers, but it’s the dominant mental model of open access.) I have some hopes that some of the federal efforts around this may help unstick the fee model, but legislation does seem to get sidelined fairly effectively in D.C. There’s some exciting policy-level work around federal licensing that may do some good things soon.

I think outreach around the message that OA doesn’t mean fees is essential – but also complicated by the mental (and often, practical) prominence of the citation economy for many authors around and from our institutions.

One thing that individual professionals can do is not sign over our own rights to our works when publishing and work with professional and scholarly organizations to make sure contributors retain rights when publishing through our organizations. (Or conversely, work to enable people to release all their rights to the public.)

**Question from the Equitable Action Committee: Do you find that there is a way that copyright law can be a superpower?**

**NS:** Ooh, a tough one. I continue to be shocked by how many people don’t know that they already own copyrights (copyright happens automatically as soon as you create a work eligible for copyright protection.) A lot of public rhetoric around copyright tends to valorize a restricted group of “creators” and cast everyone else as consumers of creative works. But in reality, *everyone* has the superpower of creation. And even the most original creator is influenced by all the art they have “consumed” in their life. In an ideal world, copyright reflects this very democratic idea that it’s all part of one big ongoing process – even though in practice, it doesn’t always work out that way. But fundamentally, there’s no separation between making new creative work and engaging with existing creative work; we all do both all the time – and to me, that’s an inspiring and empowering idea.