Professors say new ventures make a profit by using scholars' work without permission.

Much to the distress of some professors and their employers, operators of at least three commercial World-Wide Web sites have begun to feature notes taken in classes on dozens of campuses.

The site operators pay students to post notes from their courses. Like so many of the other new college-oriented Web sites that seek to attract students' attention by offering academic content, the sites are for-profit ventures laden with advertising.

The notes on at least two of the sites, www.StudentU.com and Versity.com, are available free, although Versity.com requires users to register to see notes from any but the first few meetings of the semester. The notes sites also feature services such as links to other academic resources and reference sites.

A third site, Study24-7.com, requires users to register before they can view any notes at all. In addition to the notes, it offers links to games and on-line shopping.

The commercialization of class notes is hardly new: Notes companies have been common -- and controversial -- on some large campuses since the 1960s. At some, notes services even operate under the auspices of the student government.

Still, many university leaders and professors say this latest permutation is particularly annoying -- and unnerving.

"For people to come along who do not ask for permission, who do not pay for
permission, and then make a profit off what is the product of another person’s mind is outrageous morally and infringement legally," says Robert A. Gorman, a professor of law at the University of Pennsylvania. He is one of the authors of a recent statement by the American Association of University Professors on intellectual-property rights of professors.

"There's nothing much more personal than your lecture material," says Richard J. Lutz, senior associate dean at the University of Florida graduate school.

"As an individual faculty member, I find it rather distasteful," says Mr. Lutz, who also teaches marketing. His class is among 70 or so at Florida from which one of the companies, StudentU.com, expects to post notes.

The emergence of these sites, say some, also has the potential to alter the character of college teaching, by changing the "exposure" of a class lecture.

"It's like putting a camera in every classroom," says Christine Helwick, general counsel for the California State University system, which has several campuses where class notes are slated to be posted. "There was never an expectation that what a professor taught in a classroom would be disseminated to the world."

While the law is hardly clear-cut, some colleges and organizations contend that taking notes from a class lecture and putting them on line on a commercial Web site violates professors' copyright.

Administrators at Kansas State University, for instance, have advised faculty members that professors own the common-law copyright on their lectures, and that "the mere delivery of the lecture does not effect a divestiture of the copyright" (The Chronicle, September 17).

The university’s lawyer, Richard Seaton, has also prepared a statement that professors can attach to their syllabi if they choose to. The statement reads: "Copyright 1999 [professor’s name] as to this syllabus and all lectures. Students are prohibited from selling (or being paid for taking) notes during this course to or by any person or commercial firm without the express written permission of the professor teaching this
course."

Other institutions where the sites are operating, or plan to -- including the Universities of Florida and Houston -- may also take some action on copyright grounds, according to their lawyers or provosts.

Meanwhile, James Richardson, the president of the American Association of University Professors, says he plans to have the organization's Academic Freedom committee, or perhaps a special committee, look into the matter.

"What you say in a class is your own intellectual property," says Mr. Richardson, a professor of sociology and judicial studies at the University of Nevada at Reno. "We do think there are some legal rights at stake here."

Mr. Richardson, who is also a lawyer, says it would be interesting if a professor sued one or several of the companies on copyright-infringement grounds.

Proving copyright infringement in such instances, however, isn't so easy. The University of Florida learned that in 1993, when it unsuccessfully sued a traditional note-taking company. A jury in a federal district court concluded that most statements that a professor makes in a lecture can be categorized as facts or ideas that do not belong to anyone.

And work that builds on the writings of someone else is generally not considered a violation of the original creator's copyright. So unless the postings closely replicate what the professors say, the new Internet sites might not violate a professor's copyright either, some lawyers say.

But Mr. Seaton, Kansas State's lawyer, says he expects most of the sites would indeed violate copyright. "The whole idea," he notes, "is to try to reproduce, in capsule form, what the professor said.

"If you start transforming it and making original creations, you're not actually accomplishing your purpose." In other words, the better the notes, the more likely they violate a professor's copyright.
Operators of the sites insist that their sites don't pose copyright issues. At Versity.com, a company created last year by four University of Michigan undergraduates, the goal is not to provide a verbatim transcript but "a high-quality interpretation" of the class, according to Jeff Lawson, one of the founders. The notes, he says, should reflect what "a good, diligent student takes out of a lecture."

The company expects to operate on 90 campuses this fall, carrying notes from 50 to 75 courses -- although it offered notes from only a few courses as of last week.

The four founders, who say they are all within a few credits of graduating, have decided to halt their studies to focus full time on their company. The decision apparently hasn't cost them too many friends at their alma mater. Last week the company announced it had received some $11-million in venture-capital financing -- including $75,000 from the Wolverine Fund, which is managed by graduate-business-school students at Michigan.

Oran Wolf, StudentU.com's founder, says his site encourages note takers to "communicate in their own way." His company, which began providing paper notes and exam reviews to disabled students and athletes in 1995, expects to operate on more than 60 campuses. The notes for many of the courses it hopes to cover also are not yet on line.

StudentU.com and Versity.com pay students a flat fee of $300 a course for posting notes. Study24-7.com asks its note takers to organize chat rooms and on-line class discussions, and gives the note takers a percentage of the advertising revenue on the site under a schedule that rewards them for generating more traffic onto the site. The company, which began operations in January, had at least some kind of a presence on 400 institutions last spring, says Brian Maser, its co-founder.

The companies say they screen note takers based on their grades and other factors. And while it's impossible to generalize about the quality of the notes -- it is as variable as each note taker's ability and industriousness -- few appear to provide more than a simple outline of the lecture. And in some cases, less than that. Consider a sample from the StudentU.com site for an introductory psychology class at Cal State at Long Beach. An excerpt (with spelling and punctuation verbatim) reads:
"the assumptions psychologists make dictate how people are treated, this is a reoccurring theme/impericle meaning to touch and feel, is the opposite of theoretic meaning thoughts/ psychologist who believe in this style of thought is Wundt, Wilhelm-Von Helmholtz, Herman-and Fechner, Gustav./ in the late 1800's psychology came to america by William James, who broke away from the impericle view, and expanded it ..."

The companies, which tend to focus on large lecture courses, say they don't post professors' syllabi or handouts on the sites, out of copyright-infringement concerns. The companies also advise students that the notes posted on line do not necessarily reflect the professors' points of view and should not be used in lieu of attending classes. As StudentU.com's site puts it: "You need to know that the lecture notes you find in StudentU.com are just a notetaker's interpretation of what was presented in the lecture. THEY ARE ABSOLUTELY, POSITIVELY NOT THE PROFESSOR'S LECTURE NOTES. They didn't come from the Professor -- not from the Teacher -- not from the T.A. -- not even from Santa."

Glib disclaimers notwithstanding, some professors still believe the sites infringe on copyright.

Arguments that the notes are merely "interpretive" are legal "baloney," says Mr. Gorman, the law professor from Penn. The topics professors select, the language they use, the structure of their lecture -- "all of those things are protectable intellectual property," he says.

Although for the most part professors, not colleges, own the intellectual property that makes up a class lecture, Mr. Gorman says universities should "go to bat for the faculty member" and help press legal cases against these "rip-off operations." Universities "have got to recognize that they've got an interest here," he says.

Meanwhile, some professors -- but by no means all -- are watching the companies with trepidation.

Caroline Goeser is among the wary. A visiting assistant professor of art at the University of Houston, Ms. Goeser says she "had no idea" that her fall-semester Art History II course was slated to be included on StudentU.com until told by a reporter. "I don't feel
good at all" about it, she says, even though no notes from the course have yet appeared on line.

Ms. Goeser says she fears students will rely on the Web site instead of attending class, and if they do so, they'll miss out on her discussion of slides, and class participation. Even with 160 students, she says, "I don't just lecture." She worries that the notes won't accurately represent what's going on in her classroom.

The idea that someone could publish her academic ideas without her permission or knowledge is also unsettling, she says. That's not a big issue in a survey course like Art History II, she says, because most of the material there is pretty basic. But in courses where she discusses her original scholarship, it could pose a problem.

"Just last week, I talked about my dissertation in my upper-level class," she says. The dissertation, on an artist of the Harlem Renaissance, is still unpublished.

J. Houston McCulloch, professor of economics and finance at the Ohio State University, says he too finds the companies' practices disconcerting. Some lectures for a finance class slated to be listed on StudentU.com are based on his as-yet unpublished textbook. "If they put the substance of the book on the Web, someone else could copy my book," he says.

The sites do, however, have defenders within the professoriate.

Aaron C. Ahuvia, an assistant professor of marketing at the University of Michigan at Dearborn, helped the Versity.com founders test-market their site last year, when he taught at the university's Ann Arbor campus. He says he has few qualms about posting class notes on the Web, or even about the notion that a company is making money off of them.

"Everybody is making profit off my work," says Mr. Ahuvia, who notes that he doesn't get paid for publishing a scholarly article -- or providing insights to journalists who write for newspapers. "As a professor, I want to have some control over my ideas, but I also want to disseminate my ideas. That's what I'm about."

He says he doubts students will rely on the notes instead of going to class, because
"they'll learn that it doesn't work."

Mr. Ahuvia says he's fond of a Versity.com feature that lets users search on a topic, such as hegemony, and find what professors all over the country say about it. While he also acknowledges that student notes might not be as reliable a source for such information as, say, scholarly literature, the feature could be useful to students "as a quick reference."

B. Joseph White, the dean of the business school at Ann Arbor, says he's impressed with Versity.com because of the other academic links and features on the site. And he says the presence of the class notes doesn't bother him. "I remember when course evaluations [by students] were considered an outrage, too."

And that's not just rhetoric. Mr. White says he believes in the company so strongly, he may even invest in it himself.

http://chronicle.com Section: Information Technology Page: A31