guest comment

Status of copyright in journal publishing

Copyright has provided a sound and effective mechanism for registering, administering and protecting the rights of both authors and publishers of articles in research journals. Therefore, when major changes in copyrighting journals were required by a new Copyright Law of 1977 (the first in 68 years), it was not evident that journals would easily comply. Now, after almost two years of experiences under the law, it is possible to report that copyright in research journal publishing is alive and well. The nature of this healthy diagnosis and the impact on journal publishing itself is revealed by an examination of three areas:

 Compliance by publishers with the new copyright law.

Use of copyrighted works by librar-

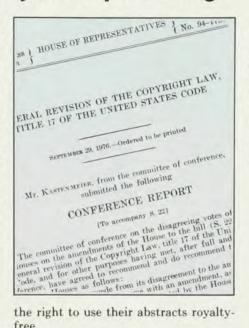
▶ Success of the Copyright Clearance Center.

First, publishers. Publishers of scientific and technical journals have been quick to comply with the specific requirements of the new copyright law. Both the copyright of individual items or articles and the copyright of compilations or collective

works are being involved.

In the case of individual articles, since authors have copyright under the new law from the moment a manuscript is created, most journal publishers in the United States are requesting transfers of copyright so that articles may be disseminated as widely as possible. The transfer agreements are very liberal regarding the rights authors reserve to use their own articles. Most agreements also state that authors have the right to be consulted on requests for permission to republish their articles in other works. As far as I know, the transfer requirement has been universally accepted. Works by US Government employees that are "works of the US government" are, however, a special case. More on this point later.

For collective works, abstracting and indexing services are relying on copyright to protect their collections of abstracts and/or titles. They may do so confidently because authors are conveying copyright to primary publishers, and primary publishers are then able to authorize secondary uses of material in their journals. Most primary publishers are willing to grant abstracting and indexing services



free.

Another trend involving publishers is the increasing availability of articles as reprints, either directly from the publisher or through photocopying. More and more publishers are now clearly identifying the royalty and permissions conditions for making photocopies of individual articles. Many publishers are using the services of the Copyright Clearance Center and are printing a CCC code on the first page of each copyrighted journal article. The CCC provides publishers and users with a practical, low-cost means to comply with the photocopying permissions requirements of the new law: Publishers may grant permissions and users may pay the required fees through a centralized mechanism. As I will describe later, the CCC mechanism is effective and successful.

Second, libraries. Many librarians have steadfastly taken the position that photocopying of journal articles has no impact library journal subscriptions. Therefore, they have contended, libraries should be free to make photocopies of journal articles without permission and without payment of copying fees to publishers.

The results of two studies are changing the attitude of librarians. First, a University of Indiana survey on why libraries cancel journal subscriptions shows the reason increasingly to be the availability

of photocopies from a library network or from copying services. Under the new copyright law, all of the copying done by commercial copying services and much of the copying done via a library network would require permission from the copyright owner and payment of fees, if required.

Second, the National Enquiry on the following conclusions and recommendations:

"It is clear that research libraries can no longer function as autonomous entities, each striving for self-sufficiency. New forms of resource sharing, the development of national collections accessible to all research libraries, and the linking of libraries through computerized bibliographic networks into a national system are essential steps that must be taken if libraries are to meet their responsibilities to provide all users with reliable access to the research literature.

This report recommends the establishment of a National Periodicals Center to promote resource sharing through a nationwide network, and it explicitly recommends using the Copyright Clearance Center as a simple, central way to compensate copyright owners for the use of their material.

To summarize the status of libraries, librarians are increasingly willing to accept the probability that network photocopying affects journal subscriptions negatively and that there is a need to compensate publishers. As a consequence, one of the premises on which the legislation now being drafted for a National Periodicals Center is based is an understanding that the Center will ensure that the fees set by copyright owners will be paid through a mechanism such as the Copyright Clearance Center, for every copy made.

Third, the Copyright Clearance Center. Publishers would find it difficult to justify copying fees per article that range from \$0.50 to \$2.00 if the administrative cost of collecting the fees were higher than the fees themselves. Indeed, the CCC, in operation since January 1978, charges only \$0.25 per copy reported. Thus the old adage of dollars to collect pennies does not apply to the CCC.

CCC is slowly but surely catching hold.





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Increasing numbers of publishers are printing the CCC article-fee code on journal articles, and increasing numbers of institutions, primarily industrial libraries, are recognizing the advantage of using the inexpensive services of the CCC to comply with the new law.

CCC is now approaching 50% of the copying volume needed to be self-supporting. Because it is not yet self-supporting, publishers have agreed that their accumulated 1978 copying fees may remain with the CCC in 1979. CCC recently reported payment of 30% of these 1978 fees to participating publishers.

Other vital statistics are:

The total number of registered titles has increased to 2202. Of this total, 31% are foreign publications.

The range of fees quoted by US publishers for pre-1978 copyrighted materials is zero (no charge) to \$15.00 per article copy. The average of the fees quoted is \$2.71 per copy.

For materials published in the US after 1 January 1978, the fees range from 0 to \$9.00 per article copy, with an average

quoted fee of \$2.03.

> 796 user organizations are registered. of which 567 were registered before 1 July 1978. An analysis at the end of 1978 showed that only 167, or 29.4% of those organizations who registered in the first half of 1978, reported any photocopying activity to the Center.

Three trends are promoting the success of the Copyright Clearance Center. First, the increasing acceptance by librarians of the need under the new Copyright Law to compensate copyright owners for library photocopying; second, the inclusion in the proposed legislation for a National Periodicals Center of the concept of a low-cost collection agency such as CCC; and third, the reciprocal agreements now being developed with other countries that have also established collection mechanisms such as The Netherlands, West Germany,

and Sweden. Finally, let me discuss some unfinished business. It is reasonable to expect that it will take years for publishers and librarians to understand the long-term effect the new copyright law will have on their own operations and to react accordingly. Fortunately, they are reacting, as I have reported, responsibly and posi-

The sector in our society that seems not to be reacting as responsibly and positively to the Congressional mandates are the federal agencies in the executive branch. For this reason, a delegation from the Association of American Publishers met with Jordan Baruch of the Department of Commerce on 28 June 1979. Baruch is chairman of the federal Committee on Intellectual Property and Information under whose aegis a major review of government copyright policies

could be made and government-wide policy guidelines on copyright could be established. We expressed our concern to him that federal agencies do not have clear policies on:

What constitutes a "Work of US Government" and further, what is the copyright status outside the US of a "Work of the US Government" that is published by a publisher in the private sector.

The copyright status of works done under federal contracts and grants.

 Payment of fees where required under the law for the copying of copyrighted works done in federal libraries and of-

To assist Baruch and his committee in their goal of establishing a governmentwide policy on copyright that is sensitive to the long-term needs of publishers, authors and the general public, Charles Lieb, copyright attorney for the Association of American Publishers, presented Baruch with an outline for a proposed policy. The AAP delegation that met with Baruch encouraged him and his committee to consider the proposed policy.

No summary of the status of copyright of journal publishing should conclude without an admonition to publishers to be patient. Yes, of course, it has been one and one-half years since the new copyright law went into effect and, of course, all of the expectations of Congress, publishers and authors have not yet been fulfilled. However, in my view, and in the view of more expert observers than I, we are doing amazingly well. We can be grateful that journal publishing is able to adjust to this complicated new world of copyright under the new law and that journal publishing, just as copyright, as I said at the outset, is "Alive and Well."

H. WILLIAM KOCH Director American Institute of Physics

Adapted from an address presented at the annual meeting of the Council of Engineering and Scientific Society Executives in Washington, D.C., July 1979.

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