



EPA INFO ACCESS

Library Network Communications

IS THE NETWORK COMPLYING WITH COPYRIGHT LAW?

by Jonda Byrd, IMSD, Manager, National Library Network Program

Librarians and information professionals are expected to have some knowledge of the copyright law and its application to library and information services. With recent advances in the field of information technology, copyright/intellectual property issues have become even more complicated for libraries in general, and for EPA libraries in particular. As librarians in Federal libraries, we approach the issues of

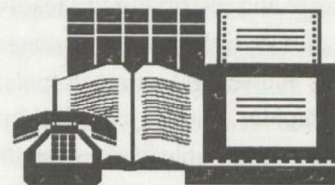
copyright from a different angle than academic or corporate librarians, but we still need to thoroughly understand the law to make sure that our libraries are in full compliance. EPA's Office of General Counsel can provide assistance by reviewing specific projects and advising us about procedural changes needed to ensure compliance.

In this issue of *INFO ACCESS* we have compiled information that we think will offer some guidance in this area. The Office of General Counsel has provided us with some text explaining their interpretation of the law for issues of special interest to EPA. This article contains information about the Fair Use Doctrine and Computer Software and Data. We have researched and included several items exploring the background of the copyright law itself. We think you will be especially interested to read the article about information projects around the EPA Library Network for which copyright issues were raised and resolved. In order to keep the network up to date with current events, we have included an article on the National Information Infrastructure and the activities of its copyright/intellectual property workgroup, a committee that

"Intellectual property law assures the authors the right to their original expression, but encourages others to build freely on it. This result is neither unfair, nor unfortunate. It is the means by which intellectual property law advances through the progress of science and art. We give authors and publishers certain rights when, in exchange, we get a richer public domain."

Justice Sandra Day O'Connor, in *Feist v. The Rural Telephone Services*

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STATUTE OF QUEEN ANNE



Printed on Recycled Paper

COPYRIGHT ISSUES IN THE EPA LIBRARY NETWORK

EPA librarians have worked with the Office of General Counsel (OGC) and information producers and distributors to resolve a wide range of copyright issues affecting library services and several outreach tools including bibliographies, current awareness updates, and information uploaded to Regional and office LANs. Most of the EPA libraries have confronted the copyright issue because of

"Technology has made the enforcement of intellectual property rights problematic at best, and maybe impossible."

Robert L. Oakley, Director of the Law Library,
Georgetown University Law Center

outreach and reference services offered to EPA staff at their facilities, including table of contents routing, interlibrary loan and document delivery, journal routing, *Current Contents* photocopying service, bibliography development, etc.

The following are specific situations in which the library staff requested the advice of Office of General Counsel attorneys about potential copyright infringement.

TRANSITION NEWS SERVICE— HEADQUARTERS LIBRARY

This was a daily current awareness update consisting of citations and abstracts from newspapers, newsletters, journals and similar sources about the Presidential transition and related issues. The update was compiled using citations and abstracts downloaded

from online databases, along with other sources identified by the librarians. It was distributed via electronic mail to hundreds of subscribers throughout the agency. The Headquarters librarians were concerned about possible copyright infringement and consulted the Office of General Counsel (OGC) for an opinion. The Library was informed that if they drafted original abstracts for the items listed in the update, this product would comply with current copyright law. This service was discontinued in 1993 and was replaced with a new current awareness update, *Enviro-Newsbrief*, which is currently compiled and distributed on a daily basis.

MID-MORNING NEWSBREAK— OPPT LIBRARY

This electronic product is a two-part daily current awareness update consisting of an early morning schedule of events of interest,

along with an early afternoon bibliography with abstracts of news items and selected journal and book citations on topics directly relating to the mission of the Office of Pollution Prevention and Toxics. The original "Mid-morning Newsbreak" was intended solely for an internal EPA audience. When it was discovered that it was being forwarded to persons outside the agency, concern arose that the practice of extensively quoting from newspapers could be violating copyright law. The service was suspended while OPPT librarians consulted the OGC, who informed them that they could bring the service into compliance by writing original descriptive abstracts instead of summaries. The renamed "OPPT Newsbreak" is now sent over E-mail and the Internet to subscribers throughout the U.S. and Canada; it is compiled daily by librarians manually going through five

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INFO ACCESS



INFO ACCESS, a forum to provide information and report on progress in information management across the Agency, is produced by the Information Access Branch (IAB) of the Information Management and Services Division (IMSD), Washington, D.C., under the direction of Jonda Byrd, National Library Network Program Manager. Please send comments and suggestions to: Mary Hoffman (contractor), Network Coordinator, 1521 East Franklin Street, B300, Chapel Hill, NC 27514. Telephone: (919) 968-3849. Electronic mail: Hoffman.Mary.

COPYRIGHT ISSUES OF SPECIAL INTEREST TO EPA EMPLOYEES

by Thomas Gorman, Office of General Counsel

A. NATURE OF COPYRIGHT

Copyright protection is available to the authors of "original works of authorship" including literary, dramatic, and musical works as well as computer software. Copyright protection for most works subsists from the time a work is expressed in a fixed and tangible form, even if the work does not carry a copyright notice. The author of a copyrighted work (or the author's assignee) has the exclusive right to reproduce, distribute, perform, or display the copyrighted work, or to prepare derivative works based on the copyrighted work. An author's copyright protects the author's expression, but it does not extend to facts or ideas contained in that expression. The duration of copyright protection has changed in recent years, but as a rule of thumb, one should assume a work is copyrighted if it was first published less than 75 years ago.

B. GOVERNMENT WORKS

Section 105 of the Copyright Act (17 U.S.C. Section 105) reads as follows:

Copyright protection under this title is not available for any work of the United States Government, but the United States Government is not precluded from receiving and holding copyrights transferred to it by assignment, bequest, or otherwise.

Section 101 of the Copyright Act defines a work of the United States Government as follows:

A "work of the United States Government" is a work prepared

by an officer or employee of the United States Government as part of that person's official duties.

There can be no U.S. copyright in any work prepared by an EPA employee as part of that employee's official duties. For example, if a work is the result of either a specific assignment or is of a nature as to be so closely related to that employee's duties as to be an expected consequence of such duties, there cannot be a U.S. copyright in that work. Accordingly, the copyright law cannot be used to restrain dissemination of a work of the United States Government in the United States, by either the work's author or the government.

Because works of the government are in the public domain, assignments of U.S. copyright interests in government works are meaningless. Publishers' documents seeking assignments of U.S. or worldwide copyright rights in works of EPA employees should be returned unsigned with the following statement: "This assignment cannot be executed, because the referenced work was authored by a United States Government employee as part of that person's official duties. In view of Section 105 of the Copyright Act (17 U.S.C. Section 105) the work is not subject to U.S. copyright protection."

United States copyright law does not preclude foreign copyright protection for works of the United States Government. Documents giving

publishers permission to use government works covered by foreign copyrights may in some circumstances be executed. Prior to execution, any such document should be reviewed by EPA's Patent Counsel in the Office of General Counsel.

"An author's copyright protects the author's expression, but does not extend to facts or ideas contained in that expression."

Thomas Gorman
Office of General Counsel, EPA

C. WORKS OF ASSISTANCE AGREEMENT RECIPIENTS AND CONTRACTORS

Works by recipients of EPA assistance agreements and EPA contractors are not considered "works of the United States Government" under the Copyright Act. Under most circumstances, assistance agreement recipients and contractors are allowed to establish copyright in works produced under their agreements with the government.

Copyright in works arising from most EPA assistance agreements

Copyright Issues of Special Interest to EPA Employees continued on pages 4-7

(grants or cooperative agreements) is governed by the "Rights in Data and Copyrights" provision found in Appendix C to Title 40, Code of Federal Regulations, Part 30.

Copyright in works arising under grants to state, local, and Indian tribal governments is governed by 40 CFR Section 31.34. The data rights provisions governing EPA assistance agreements allow a recipient of a grant or cooperative agreement the freedom to arrange for copyright without approval from EPA.

Copyright in works arising under EPA contracts is governed by Subpart 27.4 of the Federal Acquisitions Regulations (FAR)(48 CFR Sections 27.400-27.4009). FAR Data Rights Clause No. 52.227-14, Rights in Data - General (48 CFR Section 52.227-14), is found in most EPA research and development contracts. FAR Clause 52.227-14 provides that the contractor may establish copyright for scientific and technical articles without approval from EPA. However, the FAR clause does require the approval of the contracting officer before a contractor may establish copyright in all other data first produced under a contract. In most cases, retention of copyright

protection by the contractor is in EPA's best interest in that the copyright provides an incentive for the production, publication, and utilization of the work.

In contrast, certain contracts for the production or compilation of data may contain FAR Clause No. 52.227-17, Rights in Data - Special Works (48 CFR Section 52.227-17). Under the FAR's Special Works clause, the contractor agrees not to copyright data first produced in the performance of the contract without prior written permission of the contracting officer. If such permission is granted, the government is granted a license to all such data. If no permission is granted, the government can obtain copyright by requiring the contractor to establish copyright and assign it to the government or a designated assignee. Thus, this clause provides a means for the government to obtain copyright in data, including computer software, that is developed under an EPA contract.

Works of individual authors originated while employed by a recipient of an EPA assistance agreement or an EPA contractor are the property of the author's employer. Under Section 201 of the Copyright

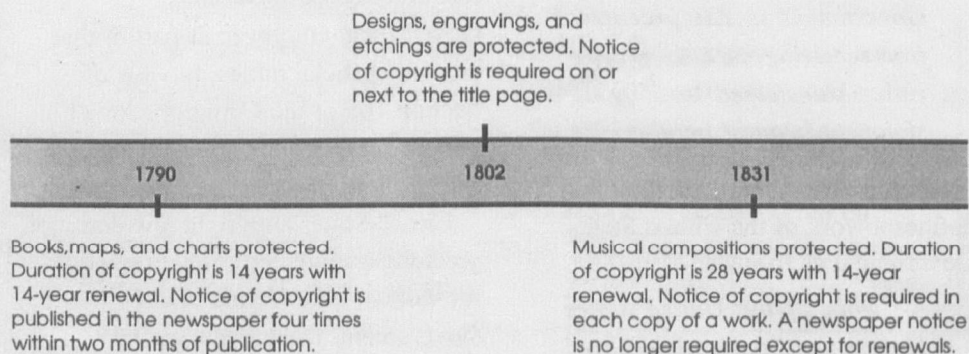
Act (17 U.S.C. Section 201), an employee's works are considered "works for hire" and, as such, are considered the property of the employer. The rights of such employers in their employee's copyrighted works, vis-a-vis the government, are determined by the applicable assistance agreement or contract regulations discussed above.

The regulations governing both assistance agreements and contracts provide that when an outside party establishes copyright in material generated under the assistance agreement or contract, the government is vested with a royalty-free, nonexclusive, and irrevocable license throughout the world to reproduce, perform, or display publicly the work and prepare derivative works from the work by or on behalf of the government. The government's license may include certain additional rights, depending on the nature of the work and the type of assistance agreement or contract under which the work was produced.

Updating and revising official government reports or copyrighted data received under EPA assistance agreements and contracts is sanctioned

COPYRIGHT TIMELINE

Copyright is a protection that has been outlined in English and American laws since the 18th century. As the American copyright law was amended, more items were added to the list of things that could be copyrighted and the duration of copyright protection was increased.



"The role of the fair use doctrine in copyright is to ensure that copyright does not become an undue obstacle to learning,"

L.Ray Patterson & Stanley W. Lindberg, *The Nature of Copyright*

within the terms of the government's copyright license. Such a revision to an EPA-sponsored report would not alter the copyright held by the EPA assistance agreement recipient or contractor, nor would it change the status of EPA's copyright license in such material.

EPA is also entitled, pursuant to its copyright license, to modify copyrighted materials prepared by recipients of EPA assistance agreements and by EPA contractors. For example, if an EPA project officer, in using a copyrighted report, initiates changes that result in a revised final report, such action is consistent with

the terms of EPA's copyright license. Nonetheless, if a project officer makes changes in reports written and copyrighted by an assistance agreement recipient or contractor either prior to or after publication by EPA, the material, as revised, is still considered to be copyrighted work to which EPA has a license.

D. JOINT WORKS OF EPA AND NON-EPA EMPLOYEES

When an EPA employee, as part of his or her official duties, participates as a coauthor of a work, the portions of the work coauthored by the EPA employee are potentially excluded from copyright protection under Section 105 of the Copyright Act (17 U.S.C. Section 105). Portions of the coauthored work that can be separated from the work of government employees remain copyrightable. When it is anticipated that an EPA employee will be a coauthor, it is advisable to give the outside coauthor notice of copyright restrictions that apply.

E. USE OF COPYRIGHTED MATERIALS

Copyrighted material may not be copied or displayed by EPA or incorporated in EPA documents unless written permission of the copyright

owner has been obtained. Prior use of copyrighted material in another government publication does not constitute permission for EPA to use the same material. The absence of a copyright notice or the unpublished status of a work does not establish that the work has not been copyrighted. When permission to use copyrighted material has been obtained and the material is used in an EPA document, the copyrighted material should be identified by the following statement:

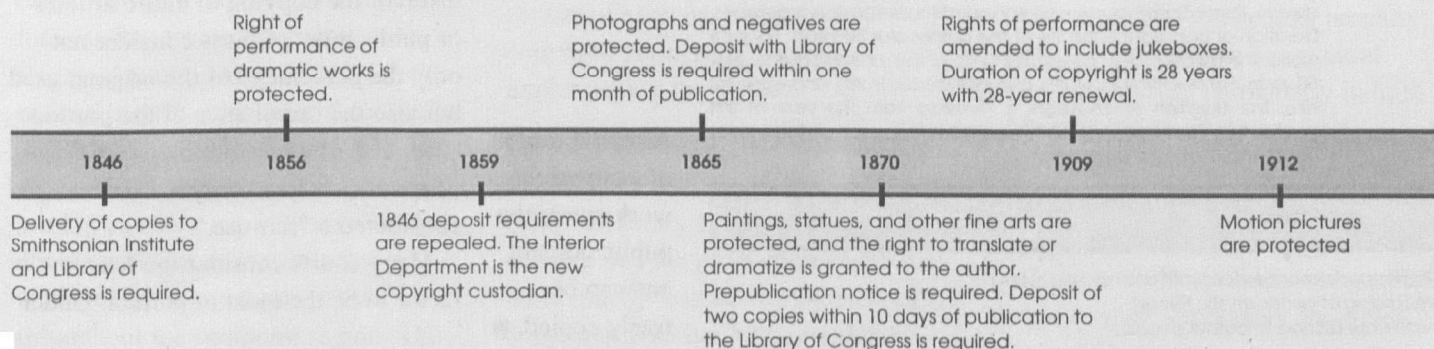
Reprinted from (title of publication, year of first publication) by (name of author) with permission of (name of copyright owner).

The National Technical Information Service (NTIS) requires that copyright release letters accompany publications submitted to it for distribution. The following is an example of a letter giving EPA and NTIS permission to use copyrighted material:

Dear:

Permission is given to the U.S. Environmental Protection Agency (EPA) and to the National Technical Information Service (NTIS) to reproduce and sell the document identified below containing the following

COPYRIGHT TIMELINE (CONTINUED)



copyrighted material: (Describe the material; include the title, page number, number of the table(s) or figure(s), and any other identifying information.) The following copyright acknowledgement will be included: "Reprinted from (title of publication, year of first publication) by (name of author) with permission of (name of copyright owner)."

EPA Document: [Identification of the EPA Document]

The EPA author should, within reason, follow any special acknowledgement wording requested by the copyright owner.

The data rights provisions applicable to both assistance agreements and contacts limit the right of the recipient or contractor to incorporate copyrighted materials in the product delivered to EPA. Prior to inclusion of copyrighted material in a work or product delivered under an EPA assistance agreement or contract, the recipient or contractor must first obtain

the copyright owner's written permission for the government's use of such material. The recipient or contractor is responsible for all necessary paperwork and any fees related to obtaining permission to use copyrighted materials.

F. FAIR USE DOCTRINE

The narrowly-construed doctrine of "fair use" limits a copyright owner's absolute ownership rights. The contours of the "fair use" doctrine are vague. Section 107 of the Copyright Act (17 U.S.C. Section 107) instructs that "fair use of a copyrighted work... for purposes such as criticism, comment, news reporting, teaching (including multiple copies for classroom use), scholarship, or research, is not an infringement of copyright." Although the Copyright Act does not attempt to define "fair use," the statute includes four factors to be considered by courts making "fair use" determinations. The four factors are as follows:

1. The purpose and character of the use, including whether the use is of

a commercial nature or is for nonprofit educational purposes;

2. The nature of the copyrighted work;
3. The amount and substantiality of the portion used in relation to the copyrighted work as a whole; and
4. The effect of the use upon the potential market for or value of the copyrighted work.

Under the first factor, courts focus on two primary issues. First, they consider whether the use is a transformative use that adds something to the work (e.g. literary criticism or scholarship) or whether the use is merely a copy offered as a substitute for the original. Second, the courts consider whether the use is for commercial or nonprofit purposes. A nonprofit use is for socially beneficial purposes. A nonprofit use for socially beneficial purposes, while not determinative, weighs in favor of a fair use finding.

Under the second factor, courts find the scope of "fair use" is greater with respect to factual works than non-factual works. Under this factor, courts have also found that the scope of fair use is much narrower for high-priced newsletters than for inexpensive mass circulation periodicals such as newspapers.

Under the third factor, courts disfavor the copying of entire articles or publications. Courts consider not only the percentage of the original used but also the importance of the portion used. Use of a portion that is the "heart of a work" is less likely to be considered a "fair use."

Many courts consider the fourth factor to be the most important. Under

After expiration of a copyright, a work enters the public domain and can be freely copied. ■

COPYRIGHT TIMELINE (CONTINUED)

Copyright law is amended to cover original works of authorship fixed in any tangible medium of expression, now known or later developed, from which they can be perceived, reproduced, or otherwise communicated, either directly or with the aid of a machine or device. Exceptions include works of industrial design and typefaces. Duration of copyright is the life of the author plus 50 years. For joint works, the duration of copyright is the life of the surviving author plus 50 years. For anonymous works, pseudonymous works, and works for hire, the duration of copyright is 75 years from the year of first publication, or a term of 100 years from the year of the work's creation, whichever expires first.

1952

1976

Public performances for profit and recording of nondramatic literary works are added to author's rights

this factor, courts are less likely to find "fair use" if widespread practice of the challenged use would adversely affect the market for the copyrighted work.

In making "fair use" determinations, courts are not restricted to the four factors discussed above. In addition, the amount of weight courts assign to each factor varies with the specific circumstances. Accordingly, "fair use" inquiries are highly fact-specific and do not readily admit to bright line generalizations. However, it is safe to assume that the making of one copy of an article by an EPA employee or contractor for personal use would fall within the "fair use" exception. It would also be a "fair use" for an EPA employee to provide a contractor or assistance agreement recipient with individual copies of select articles for the contractor's use in the conduct of EPA-sponsored research activities.

Likewise, the "fair use" exception permits EPA contractors and assistance agreement recipients to provide EPA employ-

ees with individual copies of select copyrighted articles for use in connection with EPA research activities.

For further guidance on questions of "fair use," contact EPA's Patent Counsel in the Office of General Counsel.

G. COMPUTER SOFTWARE AND DATA

Commercial computer software is almost always copyrighted. In addition, computer software is generally sold under software license agreements that provide additional limitations on use of the software. As with other categories of copyrighted materials, permission of the software's copyright owner must be obtained before the software may be copied or otherwise incorporated into an EPA work product. Permission for limited use and copying of computer software may sometimes be found in the software license agreement under which the government purchased the software.

Computer networks and computer bulletin boards facilitate the display and copying of copyrighted materials. Display of a copyrighted work on a computer network or bulletin board infringes the owners copyright no less than would mass distribution of hard copies of the same work. In addition, display of copyrighted materials on widely accessible computer networks and bulletin boards would subject the government to unforeseen copyright infringement liability. Thus, copyrighted materials should not be displayed on computer networks or bulletin boards unless the copyright owner has given EPA written permission for such display.

H. ADDITIONAL INFORMATION

For additional information regarding copyright matters, you should contact the EPA Center for Environmental Research Information or the EPA Patent Counsel in the Office of General Counsel. ■

Copyright Issues from page 2

newspapers and selecting articles to be included.

ENVIRONMENTAL NEWS ON THE LAN—REGION 4 LIBRARY

Region 4 uses a software toolbox called Ready Reference to enhance information access through its Regional LAN. The Region 4 Library maintains an *Environmental News* file in Ready Reference on the LAN. Updated at least twice weekly, this section contains the full text of articles about environmental issues that appeared in selected newspapers throughout the southeast region. The

library staff executes a saved search strategy on the PAPERS file in DIALOG and downloads the information. Each article is placed into a separate file and indexed for quick reference. Region 4 Library staff contacted each newspaper for copyright permission before implementing the service.

RISK ASSESSMENT, MANAGEMENT, COMMUNICATION—OPPT LIBRARY

OPPT's Library Manager expressed concern that the production of the risk bibliography was an infringement of copyright law. The bibliography is

compiled using citations and abstracts downloaded from online databases, along with other sources identified by the librarians and EPA staff. See the article on page 12 to find out how the Library resolved this issue.

Copyright and intellectual property rights will continue to be a central issue for libraries, particularly in light of the explosion of electronic information. Information in electronic form is even more susceptible to misuse and abuse, and information professionals should make every effort to update their knowledge about this important issue. ■

UPDATE ON THE INTELLECTUAL PROPERTY DEBATE

With the explosion of information access through computer networks, the issue of intellectual property looms larger than life. We felt that an issue on copyright/intellectual property had to include an update on the activities of the administration's working group on intellectual property, along with the corresponding actions of professional information and library organizations. For example, did you know that a coalition of more than 70 organizations, including the American Library Association (ALA), and other major library associations, telecommunications groups such as the Center for Media Education, and other organizations such as the American Civil Liberties Union and Public Citizen is working to advise the NII Task Force? That is just one aspect of the ongoing activity with intellectual property. Here is a summary of what has happened since the early months of 1994...

On July 7, 1994, the Secretary of Commerce released "Intellectual Property and the National Information Infrastructure: A Preliminary Draft of the Report of the Working Group on Intellectual Property Rights" for public comment. The report recommends changes in the law that would provide greater protection for information available through the National Information Infrastructure (NII). The chairman of the working group stated that in general the current law adequately protects copyrighted information in the NII environment, but that recommended changes will ensure appropriate protection of intellectual property rights. The overall effect of the recommendations will be

to broaden owner's rights and narrow certain limitations on those rights. Specifically, the changes are intended to foster interoperability and interconnectivity, and to standardize copyright management and technological protection methods without diminishing intellectual property rights.

The Working Group sponsored conferences on fair use guidelines and intellectual property education this fall, and public hearings on the draft preliminary report in Los Angeles,

"New technologies seem to highlight the problems each link in the information chain has with each other."

Sandy Norman, Copyright Advisor, IFLA

Chicago, and Washington, DC. The Washington DC hearings on the report were held September 22-23.

On September 2, 1994, the American Library Association drafted a letter to the Working Group outlining their three key concerns relating to intellectual property and electronic information.

1) A balanced policy framework is essential for the National Information Infrastructure. It should balance the protection of owner's rights with the free dissemination of ideas as implied by the intellectual property clause in the U.S. Constitution.

- 2) Expanded limitations must accompany expanded rights. Library provisions of the copyright law should be strengthened to allow preservation activities that use electronic or other appropriate technologies. No expansion of copyright holders' rights to include electronic transmission should be enacted with corresponding limitations on those rights in areas such as fair use, classroom use, and library use.
- 3) A new CONTU is needed. ALA recommended that a new National Commission on New Technological Uses (CONTU) of copyrighted works should be enacted. The complexity of the copyright problems raised by the NII technology surpasses those of the photocopying and early computer technologies that led to the creation by Congress of CONTU in 1974. A new CONTU is needed to conduct studies, compile data, and better justify needed changes in copyright law both to assure public access to material disseminated via the NII and to respect the rights of owners of copyrighted works.

These key points were endorsed by the American Association of Law Librarians, Association of Academic Health Science Library Directors, Medical Library Association, National Humanities Alliance, Special Libraries Association, and the Association of Research Libraries. The American Library Association endorsed the Association of Research Library's intellectual property principles that were adopted in May 1994. (See sidebar on page 9) ■

NATIONAL INFORMATION INFRASTRUCTURE TASK FORCE (NIITF)

The NIITF is a Federal interagency group created to articulate and implement the administration's vision for the NII. The task force consists of high-level representatives of the Federal agencies that play a major role in the development and application of information technologies. The NIITF coordinates government efforts in NII applications, links government applications to the private sector, resolves outstanding disputes, and implements administration policies. [For more about the NII, see "National Information Infrastructure - An Overview," and other related articles in the May 1994 issue of *INFO ACCESS*] The task force is advised by a private sector Advisory Council on the NII that consists of 25 representatives from business, labor, academia, public

interest groups, and state and local governments.

NII's Information Policy Committee is chaired by the head of the Office of Information and Regulatory Affairs at the Office of Management and Budget. It has created three working groups on intellectual property rights, privacy, and government information.

WORKING GROUP ON INTELLECTUAL PROPERTY RIGHTS

The primary focus of the working group is the intellectual integrity of products that flow through the NII pipeline and the expansion of the definition of existing standards to encompass new issues. It plans to investigate means of strengthening domestic copyright laws and international intellectual property treaties. It will also study the

application of fair use to new media. In addition, it will study the need for standards for identifying copyright ownership in electronic systems. The task force will consider the need for a system for the identification, licensing, and use of work, and for the payment of royalties, and will sponsor conferences on fair use and public education about copyright during Fall 1994.

The working group developed and published a "Green Paper" during 1994 entitled, "Intellectual Property and the National Information Infrastructure." This preliminary draft report outlines plans for the protection of intellectual property in NII's digital environment. ■

INTELLECTUAL PROPERTY PRINCIPLES ADOPTED

The Association of Research Libraries (ARL) adopted the following set of principles governing intellectual property at their 124th annual meeting in 1994:

- Copyright exists for the public good.
- Fair use, the library, and other relevant provisions of the Copyright Act of 1976 must be preserved in the development of the emerging information infrastructure.
- As trustees of the rapidly growing record of human knowledge, libraries and archives must have full use of technology in order to preserve our heritage of scholarship and research.
- Licensing agreements should not be allowed to abrogate the fair-use and library provisions authorized in the copyright statute.
- Librarians and educators have an obligation to educate information users about their rights and responsibilities under intellectual property law.
- Copyright should not be applied to U.S. government information.
- The information infrastructure must permit authors to be compensated for the success of their creative works, and copyright owners must have an opportunity for a fair return on their investment. ■

"A copyright is the group of fundamental rights given to authors of creative works for a limited period of time, including the rights of reproduction, adaptation, publication, performance, and display."

Arlene Bielefeld & Lawrence Cheeseman,
in *Libraries & Copyright Law*

ACRONYMS IN THE NEWS

Librarians and other interested information professionals will see innumerable acronyms in articles, papers, and reports that discuss electronic information, intellectual property, and the National Information Infrastructure. Following is an annotated list of some of the acronyms you might encounter in your reading:

AALA: American Association of Law Libraries

53 W. Jackson Boulevard,
Chicago, IL 60604
(312) 939-4764

Supports and acts on behalf of its members, including librarians who serve the legal profession in courts, bar associations, law societies, law schools, private law firms, and federal, state, and county governments. Sponsors a Copyright Committee. Publications: Law Library Quarterly and AALA Newsletter (m).

ACRL: Association of College and Research Libraries

(a division of ALA).
50 E. Huron Street
Chicago, IL 60611
(312) 280-2516

Seeks to improve the quality of service and represents the interests and programs of academic and research libraries. Sponsors a Copyright Committee. Publications: College & Research Libraries (bm), Colleges & Research Libraries News (11/yr), and Choice (11/yr).

ADAPSO: Computer Software and Services Industry Association (formerly Association of Data Processing Service Organizations).

1300 N. 17th Street, Suite 300
Arlington, VA 22209
(703) 522-5055

Seeks to improve management methods, develop service possibilities, and define standards of performance for companies offering computer software and services to the public. Publication: DATA Newsletter (bm).

ALA: American Library Association

50 E. Huron Street,
Chicago, IL
(312) 944-6780

Establishes standards of service, support, and education for libraries and library personnel. Promotes the adoption of standards in libraries of all kinds. Works with federal agencies to initiate and expand libraries and information services. Sponsors ALANET, an online information network. Publication: American Libraries (11/yr).

ARL: Association of Research Libraries

1527 New Hampshire Avenue
NW, Washington, DC 20036
(202) 232-2466

Seeks to identify and solve problems fundamental to large research libraries so that they may effectively serve the needs of students, faculty, and the research community. Sponsors the Coalition for Networked Information (CNI). Publication: ARL Newsletter (bm).

ASIS: American Society for Information Science

CCC: Copyright Clearance
Center 27 Congress Street
Salem, MA 01970
(508) 744-3350

Established in response to the 1978 Copyright Law which requires that permission of copyright owners be obtained by anyone doing systematic photocopying. Provides owners with a centralized agency through which permission to photocopy materials may be granted and fees collected. Will begin collective licensing of digital uses of full text in networked environments in 1994. Publication: CCC Report (q).

CITED: Copyright in Transmitted Electronic Documents Project

Under the European Community's ESPRIT programme, CITED seeks to provide a means for controlling, policing and remuneration in respect to works stored in digital form.

CNI: Coalition for Networked Information (sponsored by ARL)

Created by the Association of Research Libraries, CNI conducts research and sponsors discussions about access to and effect of information in electronic form.

EDUCOM: Interuniversity Communications Council

112 16th Street, NW, Suite 600
Washington, DC 20036
(202) 872-4200

Created by a grant from the W.K.Kellogg to promote resource sharing among colleges and universities in the application of computing, communications, and information technology in higher education. Represents the interests of higher education in the development and application of communications technology. Sponsors BITNET, an electronic mail and file transfer institutional network. Sponsors task forces in networking and telecommunications. Publications: EDUCOM Networking (q) and EDUCOM Review (q).

EFF: Electronic Frontier Foundation

c/o On Technology
155 2nd Street
Cambridge, MA 02141
(617) 864-0665

Encourages and supports the development of tools to endow non-technology users with access to computer-based telecommunications. Fosters awareness about civil liberties issues arising from the advancement in new computer-based communications media, and supports litigation to preserve, protect, and extend First Amendment rights in computing and telecommunications technology. Publication: EFF News (20/yr).

FLICC: Federal Libraries and Information Centers Committee

c/o Library of Congress
LA-1026 C
Washington, DC 20540
(202) 707-6055

Promotes improved access to information and makes recommendations on Federal library and information policies, programs, and procedures. Serves as a forum for issues and policies that affect federal libraries and information centers, needs and priorities in providing information services to the government and to the public, and efficient and cost-effective use of federal libraries and information resources and services. Advocates research and development in the application of new technologies for Federal libraries. Sponsors the Federal Library and Information Network (FEDLINK). Publication: FEDLINK Technical Notes (q).

"The intellectual property system establishes the legal environment in which the parties operate and defines the basic bundle of rights which each possesses in the absence of contractual modifications,"

Robert L. Oakley, Director of the Law Library, Georgetown University Law Center

IFLA: International Federation of Library Associations and Institutions Postbus 95312, NL-2509 CH The Hague, Netherlands 70-3140884

Promotes international understanding, cooperation, discussion, research and development in all fields of library activity including bibliography, information services, and the education of personnel. Represents members in all matters of international interest and communicates on behalf of the library profession worldwide. Publication: IFLA Journal (q)

LITA: Libraries and Information Technology Association (a division of ALA)
50 E. Huron Street
Chicago, IL 60611-2729
(312) 280-4270

Supports and promotes information dissemination in all areas of library automation, electronic data processing, systems analysis, computerized information retrieval, standards development, video and cable communications, information networks, and telecommunications. Publication: Information Technology and Libraries (q).

NAC: Network Advisory Committee/ Library of Congress

c/o Library of Congress
LA-1026 C, Washington, DC 20540

Founded in 1976 to advise LC on the role of the Library in a nationwide network of libraries and information services, NAC promotes the development of nationwide networking. It provides input to the Council on Library Resources and serves as a forum on networking for NCLIS.

NCLIS: National Commission on Libraries and Information Science

Science 1110 Vermont Avenue
NW, Washington, DC 20005
(202) 606-9200

Advises the President and Congress on library and information issues. Conducts studies and recommends federal regulatory or legislative action.

NISO: National Information Standards Organization

P.O.Box 1056
Bethesda, MD 20827
(301) 975-2814

Develops standards and promotes the voluntary use of technological standards in libraries, publishing, and information services. Its members include libraries and library networks, library associations, indexing and abstracting services, government agencies, publishers, commercial organizations, and professional, technical, and educational associations. Publication: Information Standards Quarterly.

NTIA: National Telecommunications and Information Administration

14th Street and Constitution Avenue, NW,
Room 4890
Washington, DC
(202) 377-1832

Advises federal government agencies on telecommunications matters, including telephone service and communications satellites. Acts as the President's principal adviser on communications and information policy issues.

OIRA/OMB: Office of Information and Regulatory Affairs/Office of Management and Budget

New Executive Office Building, 17th Street
and Pennsylvania Avenue, NW,
Washington, DC 20503
(202) 395-7231

Oversees federal information policy, information technology management,

and statistical policy activities. Primarily responsible for the management of federal information resources, including the collection of information from the public, and for carrying out presidential oversight responsibilities in federal rulemaking activities. Works to expand interagency coordination among federal agencies and works to reduce unnecessary paperwork and excessive reporting required by federal agencies.

OTA: Office of Technology Assessment/U.S. Congress

OTA was asked by the House Committee on the Judiciary to produce a series of reports to explore intellectual property challenges presented by new information technologies. Some of the reports in the series are *Intellectual Property Rights in an Age of Electronic and Information*, 1986 (OTA-CIT-302); *Computer Software and Intellectual Property*, 1990 (OTA-BP-CIT-61); and *Finding a Balance: Computer Software, Intellectual Property, and the Challenge of Technological Change*, 1992 (OCT-TCT-527; GPO SN 052-003-01278-2)

SLA: Special Libraries Association

1700 18th Street, NW
Washington, DC 20009
(202) 234-4700

Seeks to advance the leadership role of special librarians. Offers consulting services to organizations that wish to establish or expand library and information services. Sponsors a Copyright Committee. Publications: Special Libraries (q).

WIPO: World Intellectual Property Organization

34 Chemin des Colombettes
CH-1211 Geneva 20
Switzerland 22-7309111

A specialized agency of the United Nations that advocates the protection of intellectual property worldwide, WIPO provides assistance to governments in modernizing their legislation and institutions governing copyright and related issues. WIPO designed the structure of the international copyright law, the Berne Convention, on which all national copyright laws are based. Maintains a 25,000 volume library of laws and treaties on copyright and industrial property. Publications: Copyright (m), WIPO Newsletter (occ), and PCT Gazette (bw).

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USING DIALOG's ELECTRONIC REDISTRIBUTION AND ARCHIVING (ERA) SERVICE FOR THE OPPT LIBRARY'S RISK BIBLIOGRAPHY SERIES

One of the duties of the OPPT Library is to keep abreast of copyright clearance issues in regard to any publications produced by the Library for EPA. So when the time came for the Library to produce the latest update of its popular Risk Assessment Bibliography Series (known as *Risk Assessment, Management, Communication: A Guide to Selected Sources*), some additional 'legwork' was required as a result of EPA's increased awareness of and concern for copyright compliance issues.

While the production of a single copy of a bibliography for presentation to EPA may not be in itself cause for concern, EPA wanted to be made aware of their limitations and responsibilities in producing a work for publication made up of database citations and/or abstracts which were possibly protected by copyright. The first step we took in determining copyright for our sources was to survey the database owners whose citations we hoped to use. Although we obtained several replies as a result of this survey, all tended to be rather vague as to whether or not they would grant actual permission to use the citations in a work such as the Risk Bibliography.

The process of obtaining copyright clearance from database producers can be extremely difficult, largely because few organizations appear to be forthcoming with the name, address,

AROUND THE NETWORK

This section of INFO ACCESS is used to report on projects currently underway or recently completed in the Regions, Laboratories, and Headquarters libraries. Contact Mary Hoffman (contractor) Library Network Coordinator at (919) 968-3849 or at E-mail box Hoffman.Mary if you would like to contribute an item.

NEW STAFF SUPPORTING THE HWSF COLLECTION & DATABASE

The Headquarters Library has a "new" team providing reference assistance for hazardous waste information: Fabienne McGovern, Stephanie Doty and Jill Mottorn (all contractors). All three have worked at Headquarters on this and other projects during the past few years. If you want to consult with any of them, call (202) 260-5934 or send them a fax at (202) 260-6257.

STAFF CHANGES AT EMSL/LV

Just a quick note for your records. They have changed staff again at EMSL/LV. They have a new Library Assistant/Technician - who recently earned a MLS. Her name is Connie Lyons (contractor) and she will be handling all of the library's ILL transactions. Connie can be reached at (702) 798-2646 or by fax at (702) 798-2622. The previous library technician, Heather DiGeorge (contractor) has stepped down into a part-time library technician position. She can be reached at (702) 798-2540, and at the same FAX number as Connie.

FEEDBACK LEADS TO IMPROVED ORIENTATION SESSIONS IN NYC

Eveline Goodman (contractor), the Region 2 Librarian, reviewed feedback provided by Regional staff and used it to reorganize sessions held to orient staff to the Library's resources and services. The Library began offering weekly CD-ROM tutorials plus two structured orientation classes per month during October. *Library and Information Resources I* covers basic library services such as the public access catalog, interlibrary loan, special collections, and includes a basic introduction to OLS. *Library and Information Resources II* includes indepth coverage of library services and advanced training on subject-specific CD-ROM databases such as those covering law and regulations, chemistry, and toxics. The Librarian will continue to request feedback on these sessions and recommend and implement improvements as needed. If you would like to know more about the sessions in Region 2, contact Eveline at (212) 264-2881.

NEW STAFF AT INFOTERRA

The INFOTERRA/USA unit has a few new faces this month: Beth Behrendt (contractor), is now the head of the team. Lara Wiggert, Kerith McFadden, Felicity Haliar, Jill Mottorn, and Mardisia Greene (contractors) make up the rest of the team. If you want to inquire about international environmental information, contact INFOTERRA at (202) 260-5917, or send them a fax at (202) 260-5153.

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AROUND THE NETWORK (CONTINUED)

ELECTRONIC RULES AND COMMENTS IN THE AIR (DOCKET)

The Air and Radiation Docket is participating in the White House test pilot of electronic comments submission. On August 25, 1994, EPA was the first agency in the federal government to place a rulemaking out onto the Internet, when the Office of Air and Radiation made the Indian Tribal rule available. Public comments may now be submitted electronically using instructions published in the Federal Register notice announcing the rule. If you would like to learn more about this pilot project, contact Joe Moeltner (contractor) at (202) 260-3036.

ACCESS EPA ONLINE UPDATED

ACCESS EPA staff have updated the online version of the directory to correspond with the 1993 printed edition. In fact, the online versions of the "Library and Information Services" and "Records Management Programs" chapters now contain newer information than that printed in the 1993 edition. Beginning this fall, the online version will be updated continuously so that the most recent information will be readily available to the public through OLS. If you have questions about the ACCESS EPA project, contact Michel Lingenfelter (contractor) at (202) 260-2049.

CRL-ANNAPOLIS LIBRARY SUPPORTS TEAM BUILDING INITIATIVE

The CRL-Annapolis Library is developing a Human Resources Development Collection to aid CRL staff with the new management directive toward team building. Materials will be added on an ongoing basis, through the joint efforts of EPA and library staff. Lauren Skinner (contractor) can tell you more about this new collection if you call her at (410) 573-2799.

HQ LIBRARY PARTICIPATING IN ECOINDEX PROJECT

The EPA Headquarters Library is working on a bibliography project, Ecoindex, with the Program Systems Division (PSD) of the Office of Information Resources Management. PSD plans to make selected material on ecosystem management widely available to EPA employees around the country with the thought of perhaps eventually making it available to the public as well. Although they may eventually build a database, the first step has been to simply download a bibliography, with abstracts, from DIALOG's file 40, Enviroline. They are investigating the possibility of using DIALOG's Electronic Redistribution and Archiving (ERA) Service to archive the information. In addition, the Library will develop a small collection of materials cited in the database and ecosystem-related journals for onsite use. The Library has been acquiring copies of the articles cited in the bibliography. PSD intends to sort the 40 plus items into categories and distribute the bibliography on disk to the EPA libraries, encouraging them to distribute it further.

TIPS FOR USING THE ERA SERVICE WITH DIALOG

Over 250 of DIALOG's databases are part of their ERA (Electronic Archiving and Redistribution) service, and a list of those covered can readily be obtained by typing HELP ERA at the DIALOG ? prompt. The procedure for adding ERA charges to your database search is also extremely simple, using only three commands (COPIES <number>, REDIST <number>, and ARCHIVE <number>) in conjunction with the PRINT command commonly used to order offline prints. The PRINT CANCEL function is also available in case you wish to estimate costs before committing to ERA charges. (Remember that any prints you don't want must be cancelled within 30 minutes, as you will be charged for after that time for those you have ordered.)

DIALOG also publishes a brief guide and a Quick Reference Card to the ERA Service. Contact them at 1-800-334-2564 for a copy. ■

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is currently dealing with solutions to issues raised by the evolution of access to electronic information.

We hope this issue will provide you with a basic understanding of the copyright law and its application to EPA library projects. It should also provide some use as a reference source for future questions on this topic. The space limitations of this format precluded an involved discussion of all the facets of copyright, and we decided to save those for some future issue of *INFO ACCESS*. ■

FOLLOW-UP TO NEW WORDPERFECT OFFICE MAIL GROUP FOR LIBRARY PATRONS

by Jeannie Combest, Information Resources Management Division (IRMD), Cincinnati

The AWBERC Library kicked-off the WP Office Mail Group Newsletter in September. The distribution list consists of 85 people, and as word spreads, more names are being added. All the comments we have received so far have been very positive. It is a great way to get information out to the users, in a timely manner, and support the EPA's paperless office concept. Highlights of past issues have included: informing the library users of the library furniture move; introduction of new library staff; listing recent book and report acquisitions; and announcing the

Library weeding project that began in October. In every issue there is a special section covering environmental-related information sources available on the Internet. The newsletter allows the library to emphasize and support local EPA activities that may not be library specific. For example, recently we reminded the users about the HIV/AIDS Awareness Initiative and informed them of the special reference collection the library is currently developing on HIV/AIDS related information. The last issue also highlighted the 2nd Annual Records

Awareness Week which included tours of the record storage area and on-line demonstrations of the EPA Records Control Schedules. The newsletter is distributed bi-weekly and we plan on using the newsletter to keep library users informed of future projects such as the automated circulation system. Since this new system will affect everyone, we want the users to know what to expect before the new policies and procedures are implemented. It is a excellent way for the library to be proactive!

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and/or phone number of the person or persons who are actually authorized to give that clearance. (One also suspects that since many database producers do a substantial amount of business with the Federal Government, they may be hesitant to say 'no' to a customer.) In absence of firm permissions from any database producer, the Risk Bibliography was put 'on hold' pending further review of the situation.

About this time, DIALOG Information Services introduced a unique new program for the information industry known as ERA (Electronic Redistribution and Archiving). Through the use of the ERA service, a searcher can 'buy' clearance to redistribute the results of database searches for up to 500 individuals in his or her immediate organization (depending on the database). In addition, electronic archiving is available for DIALOG searches in some databases. This

means, for example, that clearance can be obtained to copy a database search in electronic format onto a LAN and allow access to 200 users.

A review of the databases used as source material for the Risk Bibliography showed that most of them were covered for redistribution under the ERA service. We ran searches for the latest citations available for *Risk Assessment*, *Risk Management*, and *Risk Communication* and then set up a preliminary search (or 'dry print run') for costing purposes. This preliminary search allowed us to give the Library's Project Officer a much more precise estimate of database costs and copyright clearance costs that would have been possible previously. The search results and the pricing figures were captured to a file on the PC and printed out for the Project Officer's review. (Needless to say, we remembered always to CANCEL each search before going on to the next one

to avoid a substantial bill from DIALOG!)

Once the approval to proceed with the Bibliography had been given by our Project Officer, the rest was easy! Now we were able to re-run our searches and then add ERA charges for 200 copies of each database search. The searches were then sent to us via ALL-IN-1 email, where they could be downloaded and compiled into the Risk Bibliography. Downloading the citations, stripping out extraneous header information (with the aid of several dozen Wordperfect 5.1 macros!) and sorting the citations took a little more than three weeks from preliminary searches to finished draft. With a little more revision and pending final approval, the latest edition of *Risk Assessment, Management, Communication: A Guide to Selected Sources* should be going out to 200 lucky EPA staffers, Libraries, and other Offices by the end of the year. ■

FUNDAMENTAL PRINCIPLES OF COPYRIGHT

During November 1993, representatives from the Special Libraries Association, the American Association of Law Libraries, the Association of Research Libraries, Medical Library Association, the Coalition for Networked Information, and the American Library Association testified before the working group on intellectual property of the Information Policy Committee of the National Information Infrastructure Task Force. There was broad agreement on the following fundamental principles:

- The basic purpose of copyright under the U.S. Constitution is to promote the public interest by encouraging the advancement of knowledge through a system of limited rights for owners of intellectual property.
- Intellectual property rights and protections are independent of the form of publication or distribution.
- The intellectual property system should ensure a fair and equitable balance between rights of copyright owners and the needs of users.
- Fair use and other limitations on the rights of copyright owners should continue in the electronic environment.
- Compensation systems must provide a fair and reasonable return to copyright owners.

From "Copyright Corner," by Sarah K. Winant, Chair of SLA's Copyright Law Implementation Committee, *Specialist*, March 1993, p.6. ■

LOU TILLEY RETIRES IN CHICAGO

At the end of September, Lou Tilley retired after many years of devoted service to the Regional library. Lou came to EPA's Chicago office in January 1972 and established the Region 5 Library. Over the years she developed the library, moved it three times, and became a great resource to the Library Network and the Regional EPA staff. She will be missed not only as a tremendous source of information, but also as someone who set a high standard for EPA librarians to follow.

Penny Boyle (contractor) moved in to the position of Head Librarian when Lou retired. Patti Krause, a long-time employee in Region 5's Office of Public Affairs, is serving as the Library Manager until the permanent position is filled. If you have library matters not appropriate for the contract staff, please bring them to Patti's attention. We miss you already, Lou!

TIP OF THE HAT



AN UNSUNG HERO IN OUR MIDST

Barbara Morrison, EPA's Law Librarian, recently received a 1994 "Unsung Hero Award" from the Law Librarians Society of the District of Columbia, for service to the community above and beyond the call of duty. Barbara was recognized as a professional who "works tirelessly every day serving her library users," and who "enriches the library community as a whole by her commitment to service." Congratulations, Barbara!

WELCOME TO THE NETWORK!

There are a few more new faces and voices in the network this month:

- Sandra Isaacson (contractor) is the new Regional Librarian in Kansas City.
- Gerry Kamen (contractor) has stepped in at the Pollution Prevention Resources Center in Region 9 while Karen Sundheim (contractor) takes a leave of absence. ■

STATUTE OF QUEEN ANNE

Intellectual property in general and copyright in particular have been part of the English and American legal tradition since the Statute of Anne in 1710.

Full title: A Bill for the Encouragement of Learning, by Vesting the Copies of Printed Books in the Authors or Purchasers of Such Copies

The Statute of Queen Anne was the first English copyright statute. Although its original purpose was to control the press, it came to be viewed as a device to protect the interests of the publisher and the author. It also created an economic incentive to write and publish.

—taken from *Intellectual Property Issues in the Library Network Context*, 1989