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"To promote the Progress of Science and useful Arts . . . ."

Report to the Librarian of Congress

by the Register of Copyrights

THE COPYRIGHT OFFICE

Change is said to be the antithesis of stalemate, tedium, or even stagnation. Certainly the multitude of changes that new copyright legislation necessarily caused in recent years has meant the very opposite of any of these descriptors. Fiscal year 1980 was no exception, with two major changes occurring that promise continuing vigor and energetic approaches in all areas of copyright—a change in the leadership of the Copyright Office and its return to Capitol Hill.

NEW REGISTER OF COPYRIGHTS APPOINTED

On May 13, 1980, Librarian of Congress Daniel J. Boorstin announced his appointment of David L. Ladd as Register of Copyrights, effective June 2, 1980. Mr. Ladd succeeded Barbara A. Ringer, who retired from the federal government on May 30, 1980, completing a career of distinguished service to the Copyright Office and the Library of Congress.

Barbara Ringer

Barbara Ringer's extraordinary achievements in copyright law and her work in the Copyright Office are widely known. Appointed to the staff in 1949 as an examiner, she was promoted to successively more responsible positions, including chief of the Examining Division and assistant register of copyrights, and was named Register of Copyrights in 1973. From May 1972 to November 1973 she directed the Copyright Division of the United Nations Educational, Scientific, and Cultural Organization (Unesco) in Paris. Throughout her career, Ms. Ringer was intimately involved with the extensive program for general revision of the U.S. copyright law. She participated in the execution of a number of the studies preliminary to the drafting of the revision legislation. She played a leading part in drafting the revision bill and was a principal adviser to congressional committees and Members of Congress in the preparation of the legislation that culminated in the enactment of the Copyright Act of 1976 (Public Law 94–553; Title 17, United States Code), which took full effect on January 1, 1978, as the first major revision of the copyright law since 1909. As a leading specialist in international copyright, Barbara Ringer represented the United States at numerous diplomatic gatherings and intergovernmental conferences on copyright matters. Presented with the Library's highest award for distinguished service in 1976, she was also the recipient of many other honors, including the President's Award for Distinguished Federal Civilian Service in 1977, a gold medal for "services rendered to the cause of copyright" bestowed by the Confédération Internationale des Sociétés D'Auteurs et Compositeurs (CISAC) in 1978, and an award in

recognition of her accomplishments from the Copyright Society of the U.S.A. in 1980.

David Ladd

Mr. Ladd came to the Copyright Office from the University of Miami in Coral Gables, Florida, where he was professor of law and codirector of the John M. Olin Fellowship Program in the Law and Economics Center at the university. From 1961 to 1963 he was U.S. Commissioner of Patents, having been appointed to that position by President John F. Kennedy. His tenure in the Patent Office was marked by a comprehensive reorganization of that agency and initiatives in research for documentation and information retrieval. He is the first Register of Copyrights to have also served as Commissioner of Patents. Mr. Ladd has had extensive experience in the practice of patent, trademark, and copyright law in Chicago, Illinois, and Dayton, Ohio. He has written extensively and has lectured in the United States and abroad on intellectual property subjects. His broad administrative and legal experience and his concern for furtherance of high performance and production standards augur well for the future.

The appointment of Mr. Ladd as Register of Copyrights followed the recommendation of a national search committee established by the Librarian of Congress. Its members were: Alan Latman (Chairman), Professor, New York University Law School, and Executive Director, Copyright Society of the U.S.A.; the Honorable Raya Dreben, Associate Justice, Massachusetts Appeals Court; Leonard Feist, President, National Music Publishers' Association; Dan Lacy, Senior Vice-President, McGraw-Hill, Inc.; Barbara Tuchman, author; Robert Wedgeworth, Executive Director, American Library Association; and Harvey J. Winter, Director, Office of Business Practices, U.S. Department of State.

OCCUPANCY OF THE MADISON BUILDING

A second significant change in fiscal 1980 was the removal of the Copyright Office from the Crystal City complex in Arlington, Virginia, to its new quarters, principally on the fourth and fifth floors, in the James Madison Memorial Building of the Library of Congress. This was accomplished during the period August 29 through September 13, 1980, on the basis of planning that began years ago when the Copyright Office was included as part of the general design for construction of the Madison Building. Particularly noteworthy was the transfer of more than forty million cards comprising the Copyright Card Catalog (one of the world's largest card catalogs) from Crystal City to the new building.

For the orderly completion of the move, with only minimal disruption, particular recognition is given to Michael R. Pew, associate register of copyrights; Eric S. G. Reid and Milton I. Rowe of the Copyright Administrative Office; John S. Evans of the Library Environment Resources Office; and, especially, the move coordinators in each division of the Copyright Office.

The return to Capitol Hill after more than a decade in Virginia is the most recent chapter in the 110-year history of copyright in the Library of Congress. From the time of the centralization of the copyright registration function in the Library, it operated in the U.S. Capitol Building until it moved, together with other units of the Library, to the new building, now the Thomas Jefferson Building, in 1897. In 1939 the Copyright Office was installed in what is now called the John Adams Building when it opened, the first floor of that building, with its entrance facing Pennsylvania Avenue, having been especially designed for use by the Copyright Office. Thirty years later, on March 28, 1969, trucks carried the copyright records, deposits, and furniture to Virginia in order to relieve the crowded conditions in the Library's principal buildings. Now, at the close of fiscal 1980, the Copyright Office is once again at work on Capitol Hill.

REORGANIZATION AND PERSONNEL

Preceding the new Register's appointment, the Librarian of Congress approved and implemented a realignment of certain functions in the Copyright Office, accompanied by several personnel reassignments: Michael R. Pew, formerly

assistant register for automation and records, was designated associate register of copyrights with responsibility, under the Register, for overall operations of the office; Dorothy M. Schrader, in addition to her present title as copyright general counsel, was named associate register of copyrights for legal affairs; Waldo H. Moore, former assistant register for registration, became the associate register of copyrights for special programs; Anthony P. Harrison, former chief of the Examining Division, was appointed assistant register of copyrights, with responsibility for certain reports to Congress mandated by the new copyright law; and Lewis I. Flacks, previously special legal assistant to the Register, became international copyright officer.

The Copyright Office also lost through retirement a number of other people with diverse accomplishments and many years of devoted service: Mary Brewster, Dorothy P. Keziah, Mary F. Lyle, Thomas H. Nichols, Ann Palmer, Robert D. Stevens, and Vincent J. Wintermyer.

H.R. 6933

Of critical and immediate concern to the new Register and to the Library of Congress was a bill before the 96th Congress, H.R. 6933, whose principal purpose was to amend the patent and trademark laws. Section 9 of the bill, however, as reported to the House of Representatives by the Committee on the Judiciary on September 9, 1980, provided that the Comptroller General was to submit to the Congress and the President no later than July 1, 1981, a report analyzing the efficiency of the Copyright Office and the Copyright Royalty Tribunal and making recommendations as to whether these two entities should be merged with an independent Patent and Trademark Office.

The bill was then sequentially referred to the House Committee on Government Operations, before whose Subcommittee on Legislation and National Security the Librarian of Congress, Daniel J. Boorstin, and the Register, David Ladd, appeared on September 17, 1980.

Dr. Boorstin's statement to the subcommittee emphasized that the responsibility of the Library of Congress, as carried out by the Copyright Office, for protecting the works of writers, artists, composers, and other creative persons is a function compatible with its mission to house and service the nation's intellectual resources and that the proposed merger "would not serve the creators of intellectual property as well as has the Library of Congress in its more than *110* years of stewardship." He asked that section 9 of H.R. 6933, providing for the study, be deleted from the bill, and outlined the principal reasons for this request: the continuing implementation of the recent comprehensive revision of the copyright law; the recent appointment of a new Register of Copyrights; the current move of the office into the James Madison Memorial Building on Capitol Hill; and other recent reviews of the office's operations. The Librarian referred to previous consideration of similar proposals and the consistent decisions "to continue the working partnership between the Library and the Copyright Office, which has served both organizations and the public well for over 100 years." The ultimate conclusion, Dr. Boorstin stressed, is that despite the office's additional responsibilities under the new copyright law, "Congress wisely perceived that the fundamental mission of the Copyright Office remained the same, and that neither the office nor the Library should sever their productive partnership."

In an address prepared for contemporaneous delivery, the Register elaborated on the reasons advanced in opposition to the proposal contained in section 9 of H.R. 6933 and explained the close cooperation that exists today between the Copyright Office and other parts of the Library of Congress: "The Copyright Office participates in the top management councils of the Library; the Register of Copyrights is also the Assistant Librarian of Congress for Copyright Services and reports to the Librarian of Congress rather than to any intermediate level of management; and the Library, drawing upon the sophisticated and concerned support of the scholarly and library community, as well as the legal community, backs the Copyright Office splendidly." Mr. Ladd referred to the integration of the Copyright Office's record-keeping function, including its cataloging, with the national bibliographic role of the Library of Congress. He pointed out that today the Copyright Office's cataloging is not

only serving the bar and copyright industries but also providing basic cataloging for many of the Library's special collections; that this cooperative effort avoids duplication of work and expense, expedites library cataloging, and meets the special needs of particular collections quickly and economically; that advances in technology will soon accelerate this cooperation, with access to copyright records attainable through the Library's computerized, on-line retrieval system; that the new copyright statute also makes copyright interests more dependent upon the deep resources of the Library of Congress; and that since 1870, when the copyright deposit and registration function was placed in the Library of Congress, every Librarian of Congress and every Register of Copyrights has perceived the relation of copyright to the vitality of our society.

On September 18, 1980, the subcommittee by unanimous vote deleted section 9 from H.R. 6933. The bill, with the provision in question deleted, was subsequently enacted.

WORKLOAD AND PRODUCTION

Overall workload continued to climb in fiscal 1980. Registrations reached an all-time high—464,743, as contrasted with 429,004 in 1979. The earlier record was achieved in fiscal 1977, the last full year of operations under the previous law, when total registrations were 452,702.

This increase is reflected in registrations for both published and unpublished works and renewals as well: 293,143 published works were registered in fiscal 1980 (280,270 in 1979), 138,618 unpublished (121,733 in 1979), and 32,982 renewals (27,001 in 1979). Mail processed reached the staggering figure of 1,906,227 pieces—21 percent higher than in fiscal 1979. Earned fees were also a record: $4,828,024.10.

Acquisitions and Processing Division

Fiscal year 1980 saw the achievement of the highest production in several areas of the Acquisitions and Processing Division. This surging volume of work came in a year of fiscal restraints and more staff changes than usual, including loss of some staff because of the move to Capitol Hill. The accomplishments in the face of these barriers were in large part the result of the division's initiative in searching out new ways of streamlining and modifying certain procedures in order to cope with the mounting workload without corresponding staff increases.

The Deposits and Acquisitions Section continued to enforce the deposit requirements of section 407 of the copyright law, bringing to more than $1 million the value of materials acquired for the Library of Congress through this means. With reductions in funds available for acquisitions, the Library's collections would suffer greatly were it not for the materials it acquires through copyright.

The active role of the Deposits and Acquisitions Section is also illustrated by the variety of demands placed upon it. During the year claims were received from the Library's Collections Development Office, Serial Division, Serial Record Division, Acquisitions and Overseas Operations Office, Cataloging in Publication Division, Exchange and Gift Division, Order Division, and Selection Office, as well as from recommending officers and reference specialists throughout the Library. As a result of the large volume of requests needing expeditious handling, the Library's Acquisitions Committee aided in the establishment of priorities for requests.

The Fiscal Control Section processed 190,610 separate remittances in fiscal 1980, a 4 percent increase over fiscal 1979. In addition, a total of more than $398,000 was returned to remitters in the form of some 25,000 refund checks; these figures, which are four times greater than in any previous year, largely represent monies deposited for registrations that were not made and reflect the extent to which the Copyright Office has cleared the backlog of pending cases that accumulated after the new copyright law took effect in 1978.

Examining Division

Full implementation of the team structure adopted in the 1976 reorganization plan, with evenly staffed teams, permanent team leaders, and section attorneys, strengthened the Examining Division in fiscal 1980. Correspondence problems were alleviated at least in part by progress in the office's automated correspondence management system.

Registrations based on the deposit of phonorecords instead of copies appeared to be increasing. Many unpublished musical compositions were deposited in cassette tape form. Examination of these was facilitated by the acquisition of additional cassette players.

The division developed procedures for implementing the decision in November 1979 to register answer sheets submitted for copyright. Receipt of applications for registration of claims in computer programs in which integrated circuit chips formed part of the deposit has necessitated further inquiry into the relationship of chips to copyrightable authorship in computer programs. Other special examining issues arose in connection with claims for educational tests and claims involving calligraphy, choreographic works, and certain screenplays.

The Renewals and Documents Section of the Examining Division faced its traditionally heavy workload in the first months of the calendar year. A considerable number of publishing houses and other organizations that represent authors submitted in January renewal claims for the entire calendar year in order to register their claims early in the renewal year. This caused problems in maintaining an even workflow in the renewal examining process during the first part of the calendar year.

Among the most noteworthy claims received and registered were those for the original Russian-language edition of Solzhenitsyn's *Gulag Archipelago,* on behalf of the author as claimant, and for a book entitled *Browning's Trumpeter: The Correspondence of Robert Browning and Frederick J. Furnival, 1872–1889,* containing 107 of Browning's previously unpublished letters, the publisher having obtained the rights in the letters through a written agreement with the poet's successors in title.

Cataloging Division

The Cataloging Division continued to seek enhancements to the automated Copyright Office Publication and Interactive Cataloging System (COPICS), studied the feasibility of adopting the second edition of the *Anglo-American Cataloguing Rules,* and established quality and quantity production standards for most of the division staff.

As the result of alterations in the rules for copyright cataloging, various categories of material were singled out for abbreviated entries. The division ceased supplying contents titles for unpublished sound recordings, and entries were shortened for telephone books, city directories, trade catalogs, and other advertising items.

Changes were effected also in the Copyright Office's printed catalogs. Plans were completed for restructuring the *Catalog of Copyright Entries* (*CCE*) into a dictionary catalog available only in a microform format, beginning with the 1979 issues. Through use of a computer output microform (COM) device the computer tapes produced by the COPICS system will be used to drive the COM machinery and will produce the catalogs in a microfiche format.

Information and Reference Division

As the focal point in the Copyright Office for providing information to the public and for copyright reference service, the Information and Reference Division responded to a rising workload. The Information and Publications Section assisted a record number of 7,595 visitors to the Copyright Office, designed and inaugurated the use of new information circulars, responded with individual replies to inquirers whose questions required special attention, participated in workshops on copyright, and dealt with a heavy telephone load. Hours of public service were changed, after the move to the Madison Building, to conform more nearly with the hours of other public services in the Library of Congress. The new hours of service for the public facilities of the Copyright Office are 8:30 A.M. to 5:00 P.M., Mondays through Fridays (except legal holidays).

A traveling information exhibit was designed for use at conferences and workshops on copyright. Over twelve thousand information kits were assembled and distributed, the mailing list was reviewed and somewhat reduced, and improvements were made in the storage of publications—another advantage accruing from the move to the Madison Building.

The Reference and Bibliography Section successfully implemented the team structure approved near the end of fiscal 1979. As in the past, searches were requested by the public, including both creators and users of copyrighted material, to determine whether a work is still under copyright protection, to identify the copyright owner in order to know from whom to seek

rights in the work or permission to use it, to compile lists for use in settling estates, to determine total assets for purchase or bankruptcy proceedings, to compile a bibliography of an author's work, to investigate taxable income, or to gather information for use in an infringement suit or for inclusion in a contract. A statutory charge of $10 per hour is required for the Copyright Office to search its records; total search fees in fiscal 1980 amounted to more than $107,000.

Despite the numerous complexities in the search process, the section maintained a two-to-four-week turnaround time in its responses. There were 11,028 searches during fiscal year 1980, involving 106,913 titles. In addition, the staff responded to many telephone requests not requiring searches and assisted 966 visitors in the use of the Copyright Card Catalog. Assistance was also provided to other units of the Library of Congress, including the Photoduplication Service, the Congressional Research Service, and the Music Division.

There was an increase in the overall work of the Certifications and Documents Section. The work product of this section, much of which is used in connection with active litigation, included the preparation of 5,872 additional certificates, 1,303 certifications of various Copyright Office records, and 1,664 requests for the inspection of deposits and correspondence. It is interesting to note that there were 274 requests for the inspection of correspondence files, a figure more than double that of the previous fiscal year.

Records Management Division

Preparation for the physical move to the Madison Building necessarily was a major undertaking for the Records Management Division. This complex activity included inventorying the record books, preparing for the massive task of moving the Copyright Card Catalog, and following through on a multiplicity of essential details.

The staff of the division assisted in the work of the Advisory Committee on the Expanded Use of the Copyright Deposit Collection, formed by the Library, which was considering a number of recommendations as the fiscal year ended. In addition, the division contributed to a report on the preservation needs of the Library, assisted the selection officer in recalling deposits for permanent transfer to the Library's collections, helped the Cataloging in Publication Division in a project to determine whether or not publishers are fully complying with that program, and participated in the Library's effort to update its regulations on custody of various collections.

During fiscal 1980 the Deposit Copies Unit processed 427,287 items into the copyright collections, representing a growth rate of 8 percent over the number of such items last year.

A total of 1,639,263 catalog cards were filed into the Copyright Card Catalog during the year, and considerable time was spent revising and expanding the Catalog, a task that should be easier now that there is more space in the new location.

Licensing Division

The Licensing Division was able to maintain a relatively current workload owing to practical experience gained during the past two years in the compulsory licensing of jukeboxes and cable television systems. The statutory obligations to process jukebox applications within twenty days and to process Statements of Account by cable systems before the Copyright Royalty Tribunal distributes the royalty fees the following year were met, and by the end of the fiscal year the division was current in handling jukebox applications for the 1980 licensing year and Statements of Account for the 1979 licensing year. A total of 3,687 cable television statements for the first accounting period of 1980, which closed June 30, 1980, were filed in the Licensing Division on August 29, 1980, and statements for the second accounting period of calendar 1980, which will close on December 31, 1980, will be filed on March 1, 1981. The division continues to receive royalty fees for prior licensing years, as the result of litigation by copyright owners against those owing additional amounts or in consequence of the division's determination that larger royalty fees are due. Since 1978, over $42 million in cable and jukebox royalty fees was invested pursuant to law, pending distribution by the Copyright Royalty Tribunal to the copyright owners.

The provisions of the new copyright law on public performances of recorded music by jukeboxes took effect on January 1, 1978. In that year

the division licensed 144,368 jukeboxes. This figure decreased to 138,029 machines in 1979, and there was a further decrease to 132,787 in 1980.

Communications technology is moving swiftly in the field of cable TV, and correspondence regarding distant signal values, refund requests, and general amendments to statements was required for about one-third of the cable TV systems that filed more than 7,700 Statements of Account in calendar year 1979.

Financial statements relating to the jukebox and cable television activities of the division appear in tables at the end of this report.

AUTOMATION

The Copyright Office continued to assign high priority to extending the application of automated techniques to its work. The process developed particular momentum in connection with the expansion of phase 2 of the Copyright In-Process System (COINS). This phase, a Correspondence Management System (CMS), now has the capability of tracking correspondence in the Information and Reference Division, the Examining Division, and the Acquisitions and Processing Division. The ultimate objective, of course, is the eventual ability to track all work through the registration workflow. Functional specifications have been prepared for phase 3, which will involve placing bar-code labels on every application and tracking all fee-service material as it is processed through the office. Computer-assisted tracking control and accounting should mean eventual savings in time and staff. The specifications for phase 3 were being reviewed at the end of the fiscal year, and determination of equipment requirements was also under way.

The automated retrieval of copyright records is also becoming a reality. After three years of planning and preparation, automated retrieval of part of the COPICS II data base is now possible through the Library's SCORPIO system. Records contained in the monograph file have been available for on-line searching since July 1980, and the Copyright Office staff can now also benefit from display of the serials history file, which permits the use of a previously created entry for the cataloging of subsequent issues of the same serial.

The Planning and Technical Office participated in the automation studies of the Library of Congress aimed at determining the future direction of information retrieval systems within the Library. Reports were produced on a variety of technical questions, and work is continuing on such issues as the capability of searching multiple files with a single query and the possibility of coordinating technical command languages in the Library systems with general standards in private industry. The Planning and Technical Office has also been represented on Library committees concerned with the future of card catalogs.

COPYRIGHT OFFICE PUBLICATIONS

One of the most important recent scholarly publications of the Copyright Office is the four-volume work, issued this year, entitled *Decisions of the United States Courts Involving Copyright and Literary Property, 1789–1909, with an Analytical Index.* The first three volumes, compiled and edited under the direction of Wilma S. Davis, contained the text of judicial and administrative decisions concerning copyright and literary property which interpreted the copyright law of the states and of the federal government prior to 1909. The fourth volume, prepared by Mark A. Lillis, provides access to legal opinion with reference to more than 300 pertinent categories, together with indexes to the titles of the works identified in the decisions reported and to the names of the more than 300 participating judges and some 450 notable persons in the world of literature, art, and music mentioned in the cases. Thus, for example, one finds under the name Laura Keene and under the title *Our American Cousin* three court cases involving the literary property in this drama, produced by Miss Keene, an actress who was also the first important woman theatrical manager in America. The play was being performed at Ford's Theatre on April 14, 1865, when Lincoln was shot. The entire four-volume set, of value to lawyer and to scholar in the arts alike, is on sale by the Superintendent of Documents, U.S. Government Printing Office, for $50. Also, this new set forms a part of the larger series of volumes which covers the period 1789 to 1976; this larger group, which consists of

twenty-nine volumes (including the four new volumes), is available from the same source for $195.

The office has published the *Concordance of the Copyright Law of the United States, as Enacted on October 19, 1976,* a 344-page volume available from the Superintendent of Documents for $7. This comprehensive alphabetical list of all the words employed in the statute (with the exception of prepositions, conjunctions, and the like) makes it possible to readily find all the places in the law where each particular word is used.

Parts of the *Catalog of Copyright Entries,* Fourth Series, Volume 1, issued during the fiscal year were: Part 2, Number 2, Serials and Periodicals, July-December 1978; Part 3, Number 3, Performing Arts, July-September 1978; Part 4, Number 2, Motion Pictures, July-December 1978; Part 5, Number 2, Visual Arts, July-December 1978; Part 6, Number 2, Maps, July-December 1978; Part 7, Number 2, Sound Recordings, July-December 1978; and Part 8, Number 2, Renewals, July-December 1978.

SPECIAL ACTIVITIES

A number of special activities occupied the attention of the office during the year.

The Manufacturing Clause

The so-called manufacturing clause has been a significant and controversial feature of American copyright law since 1891. Under this provision of law in its present form, certain nondramatic literary works by U.S. citizens or domiciliaries must be manufactured either in the United States or Canada in order to enjoy the full protection of the copyright law. Pursuant to the present statute, this limitation will expire on July 1, 1982, unless the law is amended. At the request of Congress, the Copyright Office has begun a study of the impact which the elimination of this provision of law would have on the U.S. book manufacturing industry, including labor rates and industry conditions generally. As the fiscal year ended, plans were being made for a hearing to be conducted by the Copyright Office and for a study to be made preparatory to the issuance of a report.

Committee to Negotiate Guidelines for Off-the-Air Videotaping for Educational Uses

The ad hoc committee formed in 1979 by the House Judiciary Subcommittee on Courts, Civil Liberties, and the Administration of Justice continued its discussions of possible guidelines on fair use for broadcast audiovisual works. Anthony P. Harrison, assistant register, and Marlene Morrisey, special assistant, aided in the work of this group. The committee met on four occasions in fiscal 1980: November 27, 1979; December 18, 1979; February 13, 1980; and September 30, 1980. Representatives of both the educational interests and the copyright proprietors were making efforts at year's end to find workable solutions to the continuing complex issues—answers that would provide adequately for classroom and other educational needs and at the same time ensure proper protection of copyrighted works and remuneration for authors and other copyright proprietors.

Section 108(i) Advisory Committee

In preparation for the five-year review of photocopying practices required by section 108(i) of the 1976 copyright law, the Copyright Office continued to consult with the advisory committee established in 1978 to advise the Register in connection with plans and preparations for the review. Members of the advisory committee are representative of the author, information, library, publishing, and user communities.

Final preparation of the Request for Proposal was made for a contractual survey "to provide the Register of Copyrights with data and analyses thereof to assist in the determination whether 17 U.S.C., section 108, has achieved a balancing of the rights of creators of copyrighted works and the needs of users who receive copies or phonorecords of those works in accordance with that section of the copyright law." On September 30, 1980, a contract was made with King Research, Inc., to "collect and evaluate data regarding the reproduction of copyrighted works (by photocopying and related methods of replication) in public, university, research, government and business libraries, by the library staff, on unsupervised machines, and on copying machines elsewhere in the surveyed organizations;

the effect of the law on such photocopying; and the effects of the law and the photocopying on authors, other copyright proprietors, libraries, and users."

Early in fiscal 1980 a series of regional hearings began for the purpose of assembling information concerning the effect of the new law on library procedures, user access to information, patterns in the publishing industry, and relationships with authors. The first hearing was held on January 19, 1980, in conjunction with the annual midwinter conference of the American Library Association, followed by the hearing on March 26, 1980, in Houston, Texas, during the annual meeting of the American Chemical Society. Hearings took place in Washington, D.C., on June 11 and June 20, 1980, during the annual meetings of the Special Libraries Association and the Medical Library Association, respectively. The most recent hearing was on October 8, 1980, in Anaheim, California, where members of the American Society for Information Science were assembled. Hearings are scheduled for January 28 and 29, 1981, in New York City. These hearings provide an opportunity for librarians, publishers, teachers, and others concerned with the photocopying of copyrighted material to testify before a Copyright Office panel on their experience under the provisions of the new copyright law and on any problems that may have arisen as a result of the new law. Comments have been sought on such issues as: (1) the extent to which section 108 may have altered library procedures and its effect on public access to information; (2) its effect on established patterns in the publishing industry and the relationship between authors, libraries, and library users; (3) its effect on the type and amount of copying performed by the library on its own behalf or on behalf of users and any changes experienced by publishers and authors in the number of requests from libraries to reproduce works; (4) the manner in which the Copyright Clearance Center has affected libraries, users, and publishers; (5) the impact, if any, of section 108 on reproduction of nonprint materials; (6) the effect of the National Commission on New Technological Uses of Copyrighted Works (CONTU) guidelines on library practices; (7) views concerning the relationship between section 107 ("fair use") and section 108 ("reproduction by libraries and archives"); (8) treatment of foreign copyrighted works and requests from foreign libraries; and (9) identification of problems and suggestions for their resolution.

Public Broadcasting Report

Section 118 of the new law establishes special provisions affecting the use of certain types of works in programs transmitted by noncommercial broadcasters. In the case of nondramatic literary works, Congress decided to encourage the formation of voluntary licensing agreements between public broadcasting entities and copyright owners. To provide a means by which it could determine the extent to which such voluntary agreements were reached and whether the agreements were successful, Congress declared that the Register of Copyrights should consult with these two groups and then submit a report to the Congress. On November 7, 1979, the Copyright Office held a public hearing with representatives of authors, publishers, public broadcasting entities, and the general public which focused on a voluntary licensing agreement reached by the Public Broadcasting Service and National Public Radio with the Association of American Publishers and the Authors League of America, Inc. On January 7, 1980, the Copyright Office submitted to Congress its *Public Broadcasting Report*, 96th Congress, 2d Session [Committee Print No. 9, 1980], relating to the public hearing and voluntary agreement.

COPYRIGHT OFFICE REGULATIONS

The copyright law expressly requires or authorizes the Register of Copyrights to implement general statutory provisions with detailed regulations on specific points. Section 702 affords the Register general authority with respect to "the administration of the functions and duties made the responsibility of the Register under this title." Section 701(d) makes all actions taken by the Register (except those involving reproduction of copyright deposit copies) subject to the Administrative Procedure Act.

Section 202.1(c) of existing Copyright Office Regulations includes "blank forms" among those works identified as not being subject to copyright. Because of concern that the generic term "blank

forms" may not provide sufficient guidance regarding whether a specific work is copyrightable, the Copyright Office initiated a Notice of Inquiry on December 5, 1979, in order to review its practices relating to blank forms. The notice invited the public to submit comments to assist the office in evaluating these practices and possibly revising the regulation. After review of the comments received in response to this inquiry, the office concluded that the principle of the existing regulation remains valid under the current law and, on September 24, 1980, terminated the inquiry.

A substantial portion of the office's regulatory activity since the revision act went into effect has been devoted to the regulation implementing section 115, which provides for a compulsory license for making and distributing phonorecords. The compulsory license permits the use of a copyrighted work without the consent of the copyright owner if certain conditions are met and royalties paid. Section 115 directs the Copyright Office to issue regulations governing the content and filing of certain notices and Statements of Account under this section. At the end of fiscal 1979 the Copyright Office reached tentative conclusions on the principal points in issue which were described and discussed in a background paper. This background paper formed the basis for an informal discussion of the issues at a public meeting held on October 19, 1979. As fiscal year 1980 ended, final regulations had been drafted and steps were being taken to issue them.

Section 410(a) of the law authorizes the Register of Copyrights to issue a certificate of registration, after determining that the deposited material constitutes copyrightable subject matter and that the other legal and formal requirements for copyright registration have been met. The scope of copyrightable subject matter is governed by section 102, which generally provides copyright protection for "original works of authorship fixed in any tangible medium of expression." Section 202.1(a) of the Copyright Office Regulations prohibits registration of "mere variations of typographic ornamentation, lettering, or coloring." On October 10, 1979, the Copyright Office held a public hearing designed to review this regulation as it pertains to the registration of claims to copyright in graphic elements involved in the design of books, periodicals, brochures, and other printed publications. In particular, the hearing concerned design elements such as the arrangement or juxtaposition of text matter, pictorial matter, or combinations of text and pictorial matter on a page or a group of pages, and certain elements of typography. The matter was still under consideration at the close of the year.

Under section 407 of the copyright law, the owner of copyright or of the exclusive right of publication in a work published with notice of copyright in the United States must deposit two copies of the work (or, in the case of sound recordings, two phonorecords) in the Copyright Office for the use or disposition of the Library of Congress. The regulations of the Copyright Office may exempt certain categories of material from these mandatory requirements or may require the deposit of only one copy or phonorecord with respect to particular categories. The law requires that the deposit be made within three months after first publication with notice in the United States; failure to deposit does not affect the copyright in the work but may subject the owner of copyright or owner of the right of publication to fines and other monetary liability if deposit is not made after a written demand for the required deposit has been issued by the Register of Copyrights. The mandatory deposit requirement applies not only to works first published with notice of copyright in the United States but also to works published with notice of copyright in the United States after first publication in a foreign country. On July 25, 1980, the Copyright Office announced that it has decided to resume a policy of enforcing the deposit requirements against foreign books and other printed works published in the United States with notice of copyright.

Section 111 prescribes conditions under which cable systems may obtain a compulsory license to retransmit copyrighted works. One of the conditions is the semiannual filing by cable systems of Statements of Account. Final regulations concerning Statement of Account submissions were issued during fiscal 1978. On July 3, 1980, the Copyright Office issued revised final regulations adopting certain technical and clarifying amendments relating to: (1) date or dates of receipt; (2) time limitations for filings; (3) fractionalization of distant signal equivalent values; (4) computation of distant signal equivalents; and (5) corrections, supplemental payments, and refunds.

Paragraph f of section 411 of the copyright law provides for the service of advance notices of potential infringement for the purpose of preventing the unauthorized use of certain works that are being transmitted "live" at the same time that they are being fixed in tangible form for the first time. On July 31, 1980, the Copyright Office issued a proposed regulation governing the content and manner of service of the advance notices. At the end of the fiscal year the Copyright Office was preparing a final regulation.

Paragraph f of section 704 entitles the Library of Congress to select any deposits of unpublished works submitted in connection with copyright registration for its collections or for transfer to the National Archives or to a federal records center, in accordance with regulations prescribed by the Register of Copyrights. On June 19, 1980, the Copyright Office issued a final regulation establishing procedures for this transfer of unpublished copyright deposits. The regulation permits the Library of Congress to select any deposits of unpublished works at any time before a request for full term retention under control of the Copyright Office has been granted by the Register of Copyrights in accordance with section 704(e). A facsimile reproduction of the entire copyrightable content will be made, however, before transfer of the deposit to the Library of Congress, unless, within the discretion of the Register, it is considered impractical or too expensive to make the reproduction; it is anticipated that these latter instances will be exceptional. The Library will take appropriate measures to protect the transferred copy or phonorecord of the work against any infringement of copyright while the deposit forms a part of its collections.

Section 710 directs the Register of Copyrights to establish procedures by which the owner of copyright in a nondramatic literary work may, at the time of copyright registration, grant the Library of Congress a license to reproduce and distribute the work for the use of the blind and physically handicapped. The Copyright Office issued a final regulation during fiscal 1978 implementing this provision. On February 28, 1980, the Copyright Office made certain technical amendments to the final regulation in order to reflect the change in the name of the Division for the Blind and Physically Handicapped of the Library of Congress to the National Library Service for the Blind and Physically Handicapped of the Library of Congress.

On September 17, 1980, the Copyright Office, in compliance with the Privacy Act of 1974 [15 U.S.C. §552(e)(4)], published its annual notice of the existence and character of its systems of records. The office last published the full text of its systems of records during fiscal 1978. No changes have occurred, and the systems of records remain in effect as published at that time.

LEGISLATIVE DEVELOPMENTS

Despite enactment of omnibus copyright revision legislation effective in 1978, substantial congressional activity in the copyright field continued during fiscal 1980. While several proposals involved matters that might be considered part of the unfinished business of copyright revision, others reflected new concerns resulting from the legislation, from technological and industrial developments, and from judicial interpretation of the act.

Cable Television and Performance Royalties for Sound Recordings

On November 15, 26, and 27, 1979, the House Judiciary Subcommittee on Courts, Civil Liberties, and the Administration of Justice held public hearings related to (1) the copyright compulsory license contained in section 111 covering certain secondary transmissions by cable television systems and (2) H.R. 997, 96th Congress, 1st Session (1979), introduced by Rep. George E. Danielson, to amend the copyright law to create a public performance right with respect to sound recordings. On November 15, 1979, Barbara Ringer, then Register of Copyrights, testified before the subcommittee concerning these issues. In addition to reiterating her support for the general principle of performance rights in sound recordings and H.R. 997 in particular, Ms. Ringer offered the following suggestions concerning the cable television compulsory license:

1. Congress should "expressly mandate the Copyright Royalty Tribunal to undertake an inquiry into 'all aspects of the operation of section 111 and chapter 8 of title 17 with respect to

secondary transmissions made to, by means of, or from communications satellite systems.' "

2. Congress should "enact legislation giving the CRT [Copyright Royalty Tribunal] subpoena powers in both its royalty distribution and rate adjusting functions."

3. The Subcommittee also "should consider whether to remove the constraints now imposed on the CRT's authority to adjust rates in response to changes in FCC rules. The Copyright Office would favor broader ratemaking authority than that now provided in section 801(b)(2)(B) and (C)."

4. The Subcommittee may wish to consider an amendment limiting the scope of section 111(a)(3) to exclude transmissions made to, by means of, or from a communications satellite system.

Although the House Judiciary Subcommittee began mark-up of H.R. 997, the process was suspended before completion. The year closed without any further legislative activity on these issues.

Exemptions of Certain Performances and Displays

Several bills were introduced in the House and the Senate seeking to broaden three exemptions found in section 110 of the copyright statute. Of these, S. 2082, 96th Congress, 1st Session (1979), introduced by Sen. Edward Zorinsky, would amend section 110 by adding a new subsection which would exempt nonprofit veterans' organizations and nonprofit fraternal organizations from royalties for the performance of musical works in the course of their activities. The Senate Judiciary Subcommittee on Improvements in Judicial Machinery conducted a public hearing on the subject on August 20, 1980. The year closed without any further activity on the bill. A similar bill, H.R. 6857, 96th Congress, 2d Session (1980), was introduced by Rep. Brian J. Donnelly. This proposal also would expand the educational exemption found in section 110(1) of the copyright statute by exempting profit-making educational institutions from copyright liability for certain performances or displays of copyrighted works by instructors or pupils in the course of face-to-face teaching activities.

Clause (4) of section 110 contains a broad exemption to the exclusive right of public performance; H.R. 7448, 96th Congress, 2d Session (1980), introduced by Rep. Barber B. Conable, would further widen this exemption to allow nonprofit educational institutions to pay fees to performers, promoters, or organizers of certain performances without the actions of the institutions constituting infringements of copyright. Finally, H.R. 6262, 96th Congress, 2d Session (1980), introduced by Rep. Richard Kelly, would authorize, under section 110, the nonprofit use of copyrighted works in general and would also broaden the educational, religious, and other exceptions in particular.

Copyright Protection for Computer Software

The issue of liability for computer uses of copyrighted works was not resolved before passage of the new copyright law in 1976. Because of this, Congress directed the National Commission on New Technological Uses of Copyrighted Works (CONTU) to study the emerging patterns in the computer field and, based on their findings, recommend definitive copyright provisions to deal with the situation. In the interim, section 117 of the statute is intended neither to cut off any rights existing under the act of 1909, nor to create any new rights that might be denied under the 1909 act or under applicable common law principles. On July 31, 1978, CONTU issued its final report, which included proposals to amend the copyright law. H.R. 6934, 96th Congress, 2d Session (1980), entitled the "Computer Software Copyright Act of 1980" and introduced by Rep. Robert W. Kastenmeier, adopts many of CONTU's proposals. This bill would amend section 101 of the act to add a specific definition of "computer programs" and would amend section 117 to provide authorization for making copies or adaptations of computer programs in limited cases and under certain conditions. The bill also provides that:

> Any exact copies prepared in accordance with the provisions of this section [117] may be leased, sold, or otherwise transferred, along with the copy from which such copies were prepared, only as part of the lease, sale, or other transfer of

all rights in the program. Adaptations so prepared may be transferred only with the authorization of the copyright owner.

The House Judiciary Subcommittee conducted public hearings on this bill on April 3, 1980, and May 8, 1980. The bill was later merged by the House Judiciary Committee with H.R. 6933, 96th Congress, 2d Session (1980), which pertains primarily to patent and trademark law. The fiscal year closed without any further activity on the provision in question.

Other Legislative Activities

Several bills were introduced in Congress proposing tax incentives in the fields of the arts and humanities. H.R. 5650, 96th Congress, 1st Session (1979), introduced by Rep. Robert A. Roe, modifies the restrictions contained in section 170(e) of the Internal Revenue Code by adding a new paragraph to state that:

> any literary, musical, or artistic composition, or similar property, which was created by the personal efforts of the taxpayer shall not be reduced by the amount of appreciation of such property, and the whole amount of such charitable contributions shall be taken into account . . . [and] treated as if the property contributed had been sold at its fair market value.

The Artistic Tax Equity Act of 1979, H.R. 7391, 96th Congress, 2d Session (1980), introduced by Reps. Richard A. Gephardt, Christopher J. Dodd, and A. Toby Moffett, has components dealing with credits against estates for certain art works, credits for certain charitable contributions of literary, musical, and artistic works; and the extension of the presumption period allowed artists against "hobby loss" treatment. Rep. Frederick W. Richmond introduced H.R. 8038, 96th Congress, 2d Session (1980), which provides credits for certain charitable contributions of literary, musical, and artistic contributions similar to H.R. 7391; credits under H.R. 8038, however, are limited to maximum contributions during the taxable year of $35,000.

An amendment of the National Labor Relations Act (NLRA) was the subject of H.R. 7402, 96th Congress, 2d Session (1980), introduced by Rep. Frank Thompson, Jr. This bill would give employers and performers in the performing arts the same rights given by section 8(f) of the NLRA to employers and employees in the construction industry.

Legislation concerning the unauthorized interception and use of subscription television signals was proposed in Congress and enacted in the state of California. Subscription television is a system by which pay television programming (motion pictures, sporting events, etc.) is transmitted over the air in scrambled form. These signals are receivable in intelligible form by members of the public having decoder boxes capable of unscrambling the signal. Rep. Richardson Preyer introduced H.R. 7747, 96th Congress, 2d Session (1980), which would add a new section to the Communications Act of 1934 making any person who knowingly attempts, conspires, or carries out an unauthorized interception of a subscription telecommunication subject to civil or criminal penalties or both. In addition, AB 3475 (1980), introduced by West Los Angeles Assemblyman Mel Levine and signed into law by the Governor of California, prohibits the manufacture, distribution, or sale of unauthorized decoder boxes capable of unscrambling over-the-air pay television signals. The law provides for a fine of $2,500 or imprisonment in a county jail for up to ninety days for not only the manufacturers, distributors, and sellers of the decoders, but also those who handle unauthorized decoder plans or kits. Another state law concerning the unauthorized use of motion pictures is Oregon House Bill 3166 (1979). The act makes it unlawful for anyone to produce or sell unauthorized videotape recordings of motion pictures. Violation is a class B misdemeanor.

JUDICIAL DEVELOPMENTS

During fiscal 1980 several opinions were reported which did or will affect the Copyright Office. Among them were cases concerning the copyrightability of computer programs, various items of jewelry, certain belt buckles, and sexually explicit motion pictures. The provisions of the 1976 Copyright Act concerning terminations of

transfers and copyright considerations in Freedom of Information Act claims were also the subjects of judicial decisions for the first time. In addition, several cases considered the propriety of various actions of the Copyright Office.

Copyrightability questions were raised in four actions of interest to the office. Decisions about copyrightability were reached in only two of them: *Kieselstein-Cord v. Accessories by Pearl, Inc.*, Copyright L. Rptr. (CCH) ¶25,189 (2d Cir. Sept. 18, 1980); and *Mitchell Bros. Film Group v. Cinema Adult Theater*, 604 F.2d 852 (5th Cir. 1979), in which the U.S. Supreme Court, *sub nom., Bora v. Mitchell Bros. Film Group*, 48 U.S.L.W. 3569 (Mar. 3, 1980), refused to review the appellate decision. In the other cases, *Data Cash Systems, Inc. v. JS&A Group, Inc.*, Copyright L. Rptr. (CCH) ¶25,183 (7th Cir. Sept. 2, 1980), and *Nova Stylings, Inc. v. Ringer*, CV79–3798 (C.D.Cal. Aug. 12, 1980), defendants prevailed without the merits of the copyrightability issues having been finally determined.

The copyrightability of three-dimensional utilitarian objects which arguably embody works of art has been the subject of relatively frequent litigation since the Supreme Court's decision in *Mazer v. Stein*, 347 U.S. 201 (1954). Of the four recent cases cited above, only *Mitchell Bros.* is utterly free from the issue. It deals with a long-discussed but rarely litigated question: does the pornographic content of a work have any effect on its copyrightability and, therefore, its eligibility for registration with the Copyright Office? The question arose when the owner of the copyright in a motion picture, *Behind the Green Door*, sought to enforce its rights against several defendants who had publicly performed the work for profit without permission. The "for profit" nature of the performances had to be pleaded and proved since the offending behavior occurred when the Copyright Act of 1909 was in force. The district court first held that the obscenity of a work could be interposed as a defense to a claim of infringement and then proceeded to find the work at issue here to be obscene and the performances therefore non-infringing. The holding below was based on the notion that the equitable doctrine of "unclean hands" barred the enforcement of claims to copyright in obscene works.

After winning below, Cinema Adult Theater, for reasons not discussed in the opinion, elected not to appear on appeal. The court, having the benefit of only plaintiff-appellant's brief and argument, reversed the judgment below and held that an infringement defense based on a work's obscene content could not successfully be interposed without reaching the question of whether the film was obscene. The Fifth Circuit's opinion noted that the [former] statutory language concerning copyright, "all the writings of an author," was on its face all-inclusive, with no clear exception of any type provided, and then cited the well-settled rule that aesthetic judgments are not relevant to considerations of copyright. According to the court, any attempt to relate obscenity to copyright would be subject to many difficulties, including the virtual impossibility of applying local obscenity standards, in accordance with *Miller v. California*, 413 U.S. 15 (1973), to the national copyright system. The court also pointed out that one era's pornography becomes great literature for the next, citing the poetry of Byron and Shelley and such works as *Ulysses* and *God's Little Acre*. The result reached by the court thus implicitly approves the position taken by the Copyright Office a number of years ago that it will not ordinarily attempt to examine works submitted for registration to determine whether they contain material that might be considered obscene.

The *Kieselstein-Cord* decision was characterized by the appellate court as being "on the razor's edge of copyright law." The United States District Court for the Southern District of New York had held, 489 F. Supp. 732 (1980), that two belt buckles of modern design, in which claims had been registered by the Copyright Office, were not copyrightable, and that although their designer argued that they were jewelry or sculpture, "they appear to be primarily belt buckles.... [which] are utilitarian objects...." Different dates of publication for the two buckles meant that the court had to apply the previous copyright law to one and the current act to the other. Nonetheless, said the court, the test created by *Mazer*, and refined in *Esquire v. Ringer*, 591 F.2d 796 (D.C. Cir. 1978), *cert. denied*, 440 U.S. 908 (1979), was the same under both laws and denied copyright protection to these works. The court

stated that it could not imagine "the buckles or any part of them existing independently as sculpture in the way that . . . *Mazer* [dictates]." Additional authority for the denial of copyright was found in refusal by Congress to enact a design statute as part of the revision process, and on the ground that the creation of the buckles was closely akin to that involved in uncopyrightable fashion design.

The Second Circuit reversed, in a two-to-one decision, and held that the belt buckles involved in this action, because they were used principally for ornamentation, were eligible for copyright. The court spoke of "uphold[ing] the copyright granted . . . by the Copyright Office," and appeared to place emphasis on the fact that the buckles were cast in precious metals and commanded prices of between $147 and $6,000. It was also clearly displeased with the fact that some of the defendant's order forms for the allegedly infringing works described them as "Barry Kieselstein Knock-offs." In finding the buckles copyrightable, the court held that protection was proper if the work of art in a utilitarian object could be physically *or* conceptually separated. While acknowledging that a line between works of art and those of utility would be hard to draw, the court concluded that the Copyright Office, which "continually engaged in the drawing of [such] lines . . ." had found these buckles protectible and held that decision proper. The vigorous dissent agreed that the copiers of the belt buckles were commercial pirates and that many people would be offended by their behavior, but went on to argue that to reach the result it desired, the majority had twisted the law to reach a result which Congress had denied. It concluded:

> Thus far Congress and the Supreme Court have answered in favor of commerce and the masses rather than the artists, designers, and the well-to-do. Any change must be left to those higher authorities. The choices are legislative not judicial.

The *Data Cash Systems* case concerns the utility of copyright as a means of protecting the intellectual property in computer programs. It was brought by the creator of a chess-playing program who discovered that semiconductor chips, identical in design to its own, were being marketed by an unlicensed competitor. The trial court held, 480 F. Supp. 1063 (N.D. Ill. 1979), that the source program (a computer program written or printed in letters and numbers in a manner that is readable by any literate human being) was a "writing" for copyright purposes, but that the object program (the operational version of the program, in whatever medium) was a machine part and not eligible for copyright. It based its ruling on the provisions of 17 U.S.C. §117 which, in effect, subject "computer-readable" works to treatment under the act of 1909. The court applied the definition of "copy" developed under that law, including the touchstone of human perceptibility, and ruled that the "read-only memory" ("ROM") which was at issue here could not be a "copy" of a copyrighted work. Although it assumed that the defendant had directly copied plaintiff's work, the court held that it was powerless to deny the defense motion for summary judgment.

The appellate opinion approved the award of summary judgment, but for totally different reasons. It held that whether the object in question was or was not a copy of a copyrighted work, it was publicly distributed in 1977 without a copyright notice in quantities sufficient to forfeit any copyright that might have existed. The plaintiff's argument that it did not know that its device could be copied by someone who never saw the printed version of the program was unavailing. The court noted that the issue of forfeiture was based purely on a question of law rather than on the publisher's intent. Because the affirmance rests on the basis of forfeiture, rather than copyrightability, the latter issue probably remains open to analysis by other courts.

Unlike the other copyrightability cases, *Nova Stylings* did not involve a claim of infringement asserted by the creator of the works in question. It was, rather, an attempt by the creator of several pieces of jewelry to obtain, in effect, a writ of mandamus to compel the Copyright Office to register its claims in its works. The copyright law does not specify that such an action shall lie. However, section 411(a) of the new law does provide (as an exception to the general rule that no action for copyright infringement can be instituted unless registration of the copyright claim has been made by the Copyright Office) that in

any case where registration has been sought and refused, the applicant is entitled to initiate an action against an alleged infringer if notice thereof is served on the Register of Copyrights, who "may, at his or her option, become a party to the action with respect to the issue of registrability." The Copyright Office's motion to dismiss in this case was granted on the ground that the above-mentioned provision of section 411(a) offers the plaintiff an adequate remedy to review the refusal of the office to register its claims and deprived the present court of jurisdiction over the complaint. As the year ended, the plaintiff had noted an appeal.

One of the first cases in which the act of 1976 provided truly new material for litigants and a court was *Burroughs v. Metro-Goldwyn-Mayer, Inc.*, 491 F. Supp. 1320 (S.D.N.Y. 1980), where the heirs of Edgar Rice Burroughs sought to enjoin production of a motion picture called *Tarzan, the Ape Man*. The heirs of Burroughs owned a corporation which owned the renewed copyrights in certain works of his. As heirs they also owned certain termination rights with respect to the extended terms of the renewed copyrights. Long before, in 1931, MGM had acquired the rights to create an original story and screenplay featuring Burroughs's character Tarzan. As part of that transaction, MGM had acquired the rights to make additional movies based on its photoplay. It had made such movies in 1931 and 1959 and proposed to do so again in 1980.

On December 12, 1977, some nineteen days before the act of 1976 took full effect, two of the Burroughs heirs served a notice of termination on their wholly owned corporation, which notice was recorded in the Copyright Office in 1978. However, MGM, which had acquired its rights in 1931 from the corporation, was not notified of the transaction at that time and, indeed, did not learn of it until January 1980. Plaintiffs took the position that their action of December 12, 1977, had terminated all of MGM's rights under the 1931 contract. The court denied the heirs' motion for a preliminary injunction on several grounds:

1. The "notice" served in 1977 was a nullity since the section of the law providing for it was not effective until 1978.

2. Even if such premature service could become effective with the statute, it would not do so here with respect to MGM, since service by the heirs on their corporation was tantamount to service on themselves, and utterly without effect on parties not served.

3. The "notice" in question did not comply with the Copyright Office regulation requiring that all grantees be identified and was deficient in listing less than all grants purportedly being terminated.

4. At all events the rights owned by MGM under the 1931 agreement were not subject to termination since the character rights conveyed were not copyright conveyances or licenses and since the agreement did not grant MGM any copyright interest.

Another truly new development occurred in *Weisberg v. Department of Justice*, Copyright L. Rptr. (CCH) ¶25,169 (D.C. Cir. June 5, 1980), in which the court dealt for the first time with the question "whether administrative materials copyrighted by private parties are subject to the disclosure provisions of the Freedom of Information Act." At issue were a series of photographs, of which the Federal Bureau of Investigation has copies, relating to the assassination of Martin Luther King, Jr., in which Time, Inc., claimed copyright. Time was willing to let plaintiff view the photographs, but wanted $10 per copy to duplicate them. The Federal Bureau of Investigation would have charged only $0.40 per copy if there had been no copyright claim. Plaintiff sought to have the government compelled, under the Freedom of Information Act (FOIA), to reproduce the works.

The district court had granted the requested relief, holding that the Copyright Act did not constitute an FOIA exemption and that plaintiff's scholarly purposes rendered his use "fair." The Court of Appeals held that it could not decide the case since Time, Inc., a necessary party, was not represented, and remanded the case for further proceedings. In so doing, however, it held that the photographs in question were "agency records," for FOIA purposes, thus leaving open only the question whether the government should copy them or merely permit public access to them.

The scope of the authority of the Copyright Office to exempt certain classes of works from the statutory requirement of depositing copies of

a complete work was the issue raised in a case concerning the alleged infringement of the copyright in the Multistate Bar Examination in *National Conference of Bar Examiners v. Multistate Legal Studies, Inc.*, 495 F. Supp. 34 (N.D. Ill. 1980). There the defendant attacked that portion of the Copyright Office Regulations (37 C.F.R. §202.20(c)(vi)) which provided for the examination and immediate return to the proprietor of the complete copy of a "secure test," provided that descriptive material, sufficient to constitute an archival record, was left on public record in the Copyright Office. The defendant charged that this violated both the U.S. Constitution and the explicit provisions of the copyright law. The court held that the regulation was within the ambit of the statute. Section 408 was held to permit limitations of this type concerning the nature of the deposit, and section 704, which deals with full-term retention of "the entire deposit" in the case of unpublished works, was construed to mean the entire deposit as required under the law *and* the appropriate regulations. The court disposed of the constitutional argument in one brief paragraph, noting that there was no authority for the proposition that permitting the deposit of something less than a complete copy of a work adversely affected "the public interest as expressed in the Constitution."

INTERNATIONAL DEVELOPMENTS

The Berne Convention

Since the turn of the century, a good deal of U.S. international copyright activity has dealt with the question whether our country should join the Berne Union. Because adherence to the Berne Convention would have required major changes in our copyright law, this question became a part of repeated efforts to modernize our domestic law which began in the 1920s. Yet these efforts produced no results until the enactment of the 1976 Copyright Act.

The drafting of the Universal Copyright Convention (UCC) in 1952 and its broad subsequent acceptance provided a means to bring the United States into multilateral copyright relations with, now, over seventy nations. Politically, the success of the UCC permitted a separate consideration of international and domestic copyright issues, with the emphasis on the latter.

The coming into force of the 1976 Copyright Act naturally improved the prospects for U.S. adherence to the Berne Convention. Copyright specialists familiar with the fitful history of the relationship of the United States to the Berne Union were quick to raise again the question of adherence. So, too, was the international copyright community. Following a meeting of experts in July 1978, called by the World Intellectual Property Organization (WIPO), which studied the compatibility of the 1976 Copyright Act with the 1971 Paris Act of Berne, the leisurely approach to Berne adherence changed radically.

At the experts' meeting it was suggested that early U.S. adherence to the Berne Convention could be achieved before necessary partial amendment of our law on the basis of a revision of the Berne Convention itself. This revision would not touch the substantive aspects of Berne; it would add, instead, a special protocol permitting states never having been a party to Berne to adhere to that convention and apply Article III of the UCC (concerning formalities) for a fixed, limited period of time. By the end of this period, a state adhering to Berne on the basis of the protocol would be required to bring its law fully into accord with Berne in order to remain a member.

This was an innovative proposal, one which many advocates of adherence to Berne reacted to with enthusiasm and encouragement. Yet, by the close of 1979, the protocol seemed further away and enthusiasm for prompt action by the states party to Berne appeared to have cooled.

The reason for this development seems to lie principally with the concerns of our major European trading partners over two factors: (1) the inherent danger in opening up the Berne Convention to any revision which might touch other contentious areas in the text itself; and (2) a reluctance to permit the reintroduction of formalities into Berne, even on a highly qualified basis and in pursuit of the specific goal.

These objections were more persuasive, considering the states that articulated them: the opponents of the protocol approach included states which have unfailingly and strongly urged U.S. adherence to Berne and whose cooperation was essential to the creation of the UCC.

Recognizing that Berne membership would mark a change in the content and direction of

our law, the Copyright Office concluded that a careful assessment was required of how our law and practice would be affected by Berne. To that end, the office has begun planning for a series of studies of the impact Berne membership would have on the U.S. copyright system. These studies, to be done largely outside the government, would emphasize the relationship of Berne to commercial and noncommercial copyright interests in our society, rather than focus upon essentially political concerns. Such an approach would root the Berne question in the same environment as copyright law in general—the livelihood and professional concerns of authors, publishers, educators, librarians, and the consumer—rather than emphasize the more removed interests of the U.S. Government.

Copyright Relations between China and the United States

Under the terms of the 1979 bilateral trade agreement between the People's Republic of China (PRC) and the United States, each country is obligated to provide protection to the copyrights of the nationals of the other. Although several technical problems have been raised concerning the means by which the United States will complete its obligations under the copyright clause of the trade agreement, our basic task is quite straightforward: affirming the eligibility of PRC nationals and copyright holders to the full benefits of the U.S. copyright law.

The People's Republic of China faces a more formidable task in implementing the copyright aspects of the trade agreement. As the United States well knew in 1979, the People's Republic of China did not have in place a comprehensive copyright regime, setting out the subject matter of copyright, exclusive rights, limitations, term, and remedies. While there were earlier signs that the PRC was considering adoption of copyright-type measures (particularly certain resolutions of the PRC First National Publications Conference of 1950), the People's Republic appears never to have enacted a comprehensive copyright law.

Thus, implementation of its side of the agreement has involved China in a major legal undertaking. The PRC has entrusted the task of drafting a copyright law to an interdepartmental committee which has collected information and has met with representatives of publishers from the United Kingdom, Japan, and France.

On June 6, 1980, the Register of Copyrights and other staff of the Copyright Office met with four representatives of the China National Publications Import Corporation, at the Library of Congress. Acknowledging that China's experience with copyright law and practice was limited, the delegation stressed the need for cooperation and noted the fact that renascent interest in copyright sprang from national economic development goals.

The Chinese publishing authorities expressed great interest in the new U.S. copyright law. Similar interest was shown with respect to the organization and mission of the U.S. Copyright Office.

Following this first meeting, China extended an invitation to the U.S. Government to send a delegation of governmental copyright experts to Beijing in the spring of 1981. This will provide an opportunity for a further examination of the principles and mechanisms of copyright law and discussion of the reasonable expectations and limitations upon both our countries in copyright matters.

While the Chinese market may not yet be a commercially significant one for U.S. copyright industries, China's entry into the world copyright community through adoption of a domestic copyright system has generated considerable interest in the United States. Although it is a developing country, China has a powerful culture with an unparalleled tradition in arts and literature. As Laurence Sickman says in *The Art and Architecture of China*, "The Chinese possess the longest continuous cultural history of any of the peoples of the world." China's experiment in copyright may lead to increased knowledge of the Chinese people, government, traditions, and values. A legal regime which reasonably respects the principles of Western copyright could go far to improve the investment climate for printing and publishing ventures in the People's Republic of China.

Beyond these economic concerns lies something more momentous: the encounter between different legal traditions—indeed, different concepts of "law" itself. Adoption of a domestic copyright system by China is an especially interesting example of the challenge confronting the People's Republic in striving for modernization

through increased trade with free-market developed states.

The People's Republic appears to approach the copyright question with the vigor required by our commercial agreement and the care the subject necessitates. Accommodation between the needs of foreign copyright proprietors for protection of their works in China and the domestic values of the PRC is difficult. Whether the approach to copyright taken by the PRC follows a particular model may, in the final analysis, be less interesting than the possibility that China will make, over time, its own unique contribution to copyright law in a multicultural world.

International Conferences

Between September 24 and October 3, 1979, the Tenth Series of Meetings of the Governing Bodies of the World Intellectual Property Organization (WIPO) was held in Geneva, Switzerland. Lewis Flacks, international copyright officer, was a member of the U.S. delegation. The Governing Bodies Meetings bring together states party to the agreements and unions administered by and comprising WIPO.

One of the items considered at the meetings was a proposal to constitute a working group which would examine, among other subjects, the question of measures which appear necessary to enable the United States to adhere to the Berne Convention. Consideration of this item provided the occasion for the United States to restate its position on the necessity for close technical cooperation between Berne countries, WIPO, and the United States on the compatibility of the 1976 Copyright Act with the 1971 Paris Act of Berne.

Mr. Flacks urged support for the proposed working group, stating that the changes made by the 1976 Copyright Act brought the United States much closer to Berne standards. A number of delegations, particularly those of the Federal Republic of Germany, France, and Sweden, also supported the working group.

Dorothy Schrader, Michael Keplinger, and Lewis Flacks were delegates to the Third Ordinary Session of the Intergovernmental Copyright Committee (IGCC) and Berne Executive Committee, which met together in Paris, France, between October 24 and October 30, 1979. The important items considered at the meeting included cable television, videocassettes and discs, the protection of computer software, and the protectibility under the UCC of works in the public domain in their country of origin.

With respect to the last item, the IGCC received a study on the subject prepared at the request of the secretariat by Barbara Ringer and Lewis Flacks. Given the complexity of the issue and the length of the study, the committee decided to defer its consideration of this question to their 1981 session. Despite its seemingly obscure subject matter, this issue touches an important question: the extent to which U.S. Government works, denied U.S. copyright under the 1976 Copyright Act, may be the subject of copyright in such foreign states as do protect their domestic governmental works.

The copyright treatment of at least certain U.S. Government works was a controversial subject during consideration of the copyright revision bill, and the Congress was not prepared to act in the absence of full hearings.

In the past, those government agencies that took a position on the question of copyright in U.S. Government works emphasized their concerns over foreign rather than domestic copying. Responding to this aspect of the question, the United States has raised the issue of whether the UCC permits the United States to assert copyright in its government works in those countries which protect such works and, if so, under what conditions. Resolution of the UCC issue may demonstrate whether there is a need for congressional action.

Additionally, during the course of the partial renewal of the Intergovernmental Committee, the rules governing elections were amended in an effort to enhance the opportunity for states to serve on the committee while maintaining significant continuity of membership. Fundamental interests and principles are involved for the United States.

The amendments to the election rules which were adopted at the 1979 meeting fell short of changes demanded by many developing and socialist states. These states sought to completely revise the election rules so as to inject into the UCC the principle of bloc voting procedures used in certain other organs of the United Nations. Under bloc voting systems, seats on a board or assembly are allocated on the basis of an agreed-upon formula which establishes groupings of

states. At the simplest level, groupings might be on the basis of economic position: free-market states, socialist countries, and developing states. More complex groupings are possible on the basis of geography, language, and population; or economic position can be correlated to these other factors, making the formula quite complex.

What all such systems have in common is the assumption that by reflecting the entire world in superficially proportional ways, greater democracy is said to be given to decision making. From the point of view of the United States, however, bloc systems have served primarily to politicize the working of technical organizations and thwart the growth of specialized international law through consensus. In the case of copyright, the problem is complicated by sharp differences in the importance of copyright at the national level.

In Western Europe, North America, and the free-market states of Latin America and the Pacific, copyright is a central, organizing concept in the marketplace. In socialist states, that role is largely absent. And, in the developing world, the representatives of those countries believe their need for access to protected works is so great and the indigenous marketplace so often inadequate, that their view of copyright law is limited by their perception of their own circumstances. Accommodating international law to diverse national systems and values is a difficult matter in copyright, as other aspects of the so-called North-South Dialog have demonstrated.

The danger in bloc system procedures is simply that it diminishes the strength of those states which have the greatest stake—not necessarily economic—in the outcome of the work of the agency concerned. The extent to which the United States and other free-market states can repose confidence in international organizations as a means to develop rules of universal application is obviously related to whether the interests of those states intimately concerned with the subject matter are respected.

The subject of how copyright law treats the new technologies emerging out of modern information science is, without doubt, one of the most pressing legal issues before the world community today. In the United States it has been the subject of a presidentially appointed study commission—the Commission on New Technological Uses of Copyrighted Works (CONTU)—and proposed further revisions of our copyright law.

The extraordinary growth of the information industry, both in the software and hardware spheres, including the phenomenal emergence of computer chip production, means that proprietary questions have important consequences for industry growth, the patterns of ownership, and the terms of international trade and licensing.

Moreover, the use of previously created copyrighted works in automated information systems raises important policy and legal questions concerning when such use infringes copyright. Automated bibliographic and document delivery systems—both existing and contemplated—provide greater flexibility and thoroughness in managing information. But whether, or how, this new technology affects traditional publishers and authors is a problem which can only grow in practical importance over the next decade. The United States is not alone in its interest. Several Western European states and Japan recognize that the stability of world markets for this new technology can be affected by foreign and international copyright law.

This year two significant international conferences were held on the question of protection for computer software, both attended by Michael Keplinger (who, before joining the Copyright Office, was deputy director of CONTU). The First Session of the Expert Group on Legal Protection of Computer Software met in Geneva from November 25 to December 1, 1979. Between December 15 and 19, 1980, a meeting to discuss the desirability and feasibility of an international treaty on the protection of computer software was held in Geneva.

The focus of the latter meeting was on the preparation of a questionnaire to elicit the views of the computer industry on the need for legal protection of computer software and to assist WIPO in its assessment of the existing copyright situation. The principal question is whether existing conventions on industrial property and copyright adequately provide for needed protection, or whether a separate agreement is required.

The law affecting the operation of film archives—in the acquisition, preservation, use, and exchange of motion pictures—was the subject of a Unesco conference held in Paris from March 18 to 27, 1980. Lewis Flacks and Paul Spehr, assistant chief of the Motion Picture, Broadcasting, and Recorded Sound Division, represented the United States.

The object of the meeting was to draft an international recommendation to underscore the important role which preservation of the national audiovisual heritage can play in shaping national culture and scholarship. Interest in the preservation and use of audiovisual records is not limited to countries such as the United States which produce and export a large quantity of motion pictures and television programming. The universality of moving images is a fact which scholars, researchers, and students all over the world take into consideration when studying their own history and society.

However, important commercial problems and their relation to copyright law have made the question of motion picture and television archives a hotly debated topic. The problems run the gamut from international commercial film piracy to the low level of copyright protection extended under many national laws to archivally held copies of motion pictures.

The recommendation adopted by the conference was therefore a difficult compromise. Acknowledging the desirability of having states systematically and thoroughly preserve their *national* moving image production, the recommendation also recognized that acquisition and preservation of *foreign* moving images should necessarily be selective. While the recommendation notes that, for domestic production, mandatory archival deposit requirements could be appropriate, it sets down a clear preference for voluntary, contractual arrangements for selective acquisition of culturally significant foreign productions.

Observers of the international copyright scene have noted the emergence of Latin America as an important region, with a distinctive approach to copyright derived from European tradition but qualified by the exigencies of economic development. In particular, Mexico and Brazil have asserted significant leadership in Unesco and WIPO, largely on behalf of developing states. Yet, while their perspective centers on the problem of copyright and development, their legal background in the field is strongly European. For quite some time, important Latin American states have been members of the Berne Convention and of the Rome Convention for the Protection of Performers, Phonogram Producers, and Broadcasting Organizations. Because of their role in international copyright and their position with respect to U.S. markets, dialog efforts to explore differences in law and policy are especially important to these countries. Few vehicles exist to carry on that dialog. A hopeful sign, therefore, was the formation of the Interamerican Copyright Institute in the early 1970s. Dedicated to the study of copyright in the Americas, the institute draws its membership from the private sector, the government, and the academic world.

The annual meeting of the Executive Council of the Interamerican Copyright Institute was held in Buenos Aires, Argentina, simultaneously with the Regional Seminar on Copyright for the Countries of Latin America and the Caribbean (sponsored by WIPO and Unesco) between November 3 and 11, 1979. Patrice Lyons, of the Office of the General Counsel in the U.S. Copyright Office, attended both meetings. The aim of the meetings was to examine the main tendencies in Latin American copyright law and to identify possibilities for harmonization of national systems.

Foreign Visitors

Many foreign visitors to the Copyright Office come for routine business purposes, such as the registration and deposit of works in compliance with our copyright law. Still others come to consult with officers of the Copyright Office and the Library of Congress on broad international matters. In this latter category, there were several significant meetings.

Between April 15 and 19, 1980, officials of the Copyright Office met with Fares Khalil Wahba and Ali Talaat Wassfy of the General Egyptian Book Organization. In a series of meetings within the Copyright Office and with officials of the Department of State, questions of copyright administration, the bases of international protection and future cooperation in copyright, and book-trade matters were discussed.

On May 13, ten representatives of Japanese broadcasting organizations met with a group of Copyright Office officials. The purpose of the meeting, requested by the Japanese, was to obtain information about recent legal developments in the United States and policy with respect to certain international agreements

affecting broadcasting. Views were exchanged with respect to the question of public performance rights in sound recordings, particularly under H.R. 997, introduced by Rep. George E. Danielson. Also discussed were the subjects of U.S. interest in adhering to the Rome Convention and the Brussels Satellite Convention.

The long-standing effort to devise a means for the avoidance of double taxation of copyright royalties reached its climax this fiscal year. Patrice Lyons represented the United States as an observer at the International Conference of States on the Double Taxation of Copyright Royalties Remitted from One Country to Another, held in Madrid, Spain, from November 26 to December 13, 1979. The United States has historically preferred to deal with the complex question of double taxation on the basis of carefully negotiated bilateral agreements, comprehensive in scope and based upon the actual situation between the United States and a given country. As a consequence, the United States could endorse neither the multilateral approach nor the specific provisions in the draft instrument. The United States nonetheless repeated its desire and willingness to eliminate such double taxation on a bilateral basis.

Foreign copyright officials and private-sector representatives who visited the Copyright Office during the fiscal year included A. Henry Olsson of the Ministry of Justice of Sweden and David Catterns of Australia. These visits provided the opportunity for discussions about the book trade and, in the case of Sweden, which has always been a staunch supporter of U.S. entry into Berne, the question of our adherence.

Respectfully submitted,

DAVID L. LADD
Register of Copyrights and
Assistant Librarian of Congress
for Copyright Services

International Copyright Relations of the United States as of September 30, 1980

This table sets forth U.S. copyright relations of current interest with the other independent nations of the world. Each entry gives country name (and alternate name) and a statement of copyright relations. The following code is used:

Bilateral	Bilateral copyright relations with the United States by virtue of a proclamation or treaty, as of the date given. Where there is more than one proclamation or treaty, only the date of the first one is given.
BAC	Party to the Buenos Aires Convention of 1910, as of the date given. U.S. ratification deposited with the government of Argentina, May 1, 1911; proclaimed by the President of the United States, July 13, 1914.
UCC Geneva	Party to the Universal Copyright Convention, Geneva, 1952, as of the date given. The effective date for the United States was September 16, 1955.
UCC Paris	Party to the Universal Copyright Convention as revised at Paris, 1971, as of the date given. The effective date for the United States was July 10, 1974.
Phonogram	Party to the Convention for the Protection of Producers of Phonograms Against Unauthorized Duplication of Their Phonograms, Geneva, 1971, as of the date given. The effective date for the United States was March 10, 1974.
Unclear	Became independent since 1943. Has not established copyright relations with the United States, but may be honoring obligations incurred under former political status.
None	No copyright relations with the United States.

Afghanistan
None

Albania
None

Algeria
UCC Geneva Aug. 28, 1973
UCC Paris July 10, 1974

Andorra
UCC Geneva Sept. 16, 1955

Angola
Unclear

Argentina
Bilateral Aug. 23, 1934
BAC April 19, 1950
UCC Geneva Feb. 13, 1958
Phonogram June 30, 1973

Australia
Bilateral Mar. 15, 1918
UCC Geneva May 1, 1969
UCC Paris Feb. 28, 1978
Phonogram June 22, 1974

Austria
Bilateral Sept. 20, 1907
UCC Geneva July 2, 1957

Bahamas, The
UCC Geneva July 10, 1973
UCC Paris Dec. 27, 1976

Bahrain
None

Bangladesh
UCC Geneva Aug. 5, 1975
UCC Paris Aug. 5, 1975

Barbados
Unclear

Belgium
Bilateral July 1, 1891
UCC Geneva Aug. 31, 1960

Benin
(formerly Dahomey)
Unclear

Bhutan
None

Bolivia
BAC May 15, 1914

Botswana
Unclear

Brazil
Bilateral Apr. 2, 1957
BAC Aug. 31, 1915
UCC Geneva Jan. 13, 1960
UCC Paris Dec. 11, 1975
Phonogram Nov. 28, 1975

Bulgaria
UCC Geneva June 7, 1975
UCC Paris June 7, 1975

Burma
Unclear

Burundi
Unclear

Cambodia
(See entry under Kampuchea)

Cameroon
UCC Geneva May 1, 1973
UCC Paris July 10, 1974

Canada
Bilateral Jan. 1, 1924
UCC Geneva Aug. 10, 1962

Cape Verde
Unclear

Central African Empire
Unclear

Chad
Unclear

Chile
Bilateral May 25, 1896
BAC June 14, 1955
UCC Geneva Sept. 16, 1955
Phonogram March 24, 1977

China
Bilateral Jan. 13, 1904

Colombia
BAC Dec. 23, 1936
UCC Geneva June 18, 1976
UCC Paris June 18, 1976

Comoros
Unclear

Congo
Unclear

Costa Rica [1]
Bilateral Oct. 19, 1899
BAC Nov. 30, 1916
UCC Geneva Sept. 16, 1955
UCC Paris Mar. 7, 1980

Cuba
Bilateral Nov. 17, 1903
UCC Geneva June 18, 1957

Cyprus
Unclear

Czechoslovakia
Bilateral Mar. 1, 1927
UCC Geneva Jan. 6, 1960
UCC Paris Apr. 17, 1980

Denmark
Bilateral May 8, 1893
UCC Geneva Feb. 9, 1962
Phonogram Mar. 24, 1977
UCC Paris July 11, 1979

Djibouti
Unclear

Dominica
Unclear

Dominican Republic [1]
BAC Oct. 31, 1912

Ecuador
BAC Aug. 31, 1914
UCC Geneva June 5, 1957
Phonogram Sept. 14, 1974

Egypt
Phonogram Apr. 23, 1978
For works other than sound recordings, none

El Salvador
Bilateral June 30, 1908, by virtue of Mexico City Convention, 1902
UCC Geneva Mar. 29, 1979
UCC Paris Mar. 29, 1979
Phonogram Feb. 9, 1979

Equatorial Guinea
Unclear

Ethiopia
None

Fiji
UCC Geneva Oct. 10, 1970
Phonogram Apr. 18, 1973

Finland
Bilateral Jan. 1, 1929
UCC Geneva Apr. 16, 1963
Phonogram Apr. 18, 1973

France
Bilateral July 1, 1891
UCC Geneva Jan. 14, 1956
UCC Paris July 10, 1974
Phonogram Apr. 18, 1973

Gabon
Unclear

Gambia, The
Unclear

Germany
Bilateral Apr. 15, 1892
UCC Geneva with Federal Republic of Germany Sept. 16, 1955
UCC Paris with Federal Republic of Germany July 10, 1974
Phonogram with Federal Republic of Germany May 18, 1974
UCC Geneva with German Democratic Republic Oct. 5, 1973

Ghana
UCC Geneva Aug. 22, 1962

Greece
Bilateral Mar. 1, 1932
UCC Geneva Aug. 24, 1963

Grenada
Unclear

Guatemala [1]
BAC Mar. 28, 1913
UCC Geneva Oct. 28, 1964
Phonogram Feb. 1, 1977

Guinea
Unclear

Guinea-Bissau
Unclear

Guyana
Unclear

Haiti
BAC Nov. 27, 1919
UCC Geneva Sept. 16, 1955

Honduras [1]
BAC Apr. 27, 1914

Hungary
Bilateral Oct. 16, 1912
UCC Geneva Jan. 23, 1971
UCC Paris July 10, 1974
Phonogram May 28, 1975

Iceland
UCC Geneva Dec. 18, 1956

India
Bilateral Aug. 15, 1947
UCC Geneva Jan. 21, 1958
Phonogram Feb. 12, 1975

Indonesia
Unclear

Iran
None

Iraq
None

Ireland
Bilateral Oct. 1, 1929
UCC Geneva Jan. 20, 1959

Israel
Bilateral May 15, 1948
UCC Geneva Sept. 16, 1955
Phonogram May 1, 1978

Italy
Bilateral Oct. 31, 1892
UCC Geneva Jan. 24, 1957
Phonogram Mar. 24, 1977
UCC Paris Jan. 25, 1980

Ivory Coast
Unclear

Jamaica
None

Japan [2]
UCC Geneva Apr. 28, 1956
UCC Paris Oct. 21, 1977
Phonogram Oct. 14, 1978

Jordan
Unclear

Kampuchea
UCC Geneva Sept. 16, 1955

Kenya
UCC Geneva Sept. 7, 1966
UCC Paris July 10, 1974
Phonogram Apr. 21, 1976

Kiribati
Unclear

Korea
Unclear

Kuwait
Unclear

Laos
UCC Geneva Sept. 16, 1955

Lebanon
UCC Geneva Oct. 17, 1959

Lesotho
Unclear

Liberia
UCC Geneva July 27, 1956

Libya
Unclear

Liechtenstein
UCC Geneva Jan. 22, 1959

Luxembourg
Bilateral June 29, 1910
UCC Geneva Oct. 15, 1955
Phonogram Mar. 8, 1976

Madagascar
(Malagasy Republic)
Unclear

Malawi
UCC Geneva Oct. 26, 1965

Malaysia
Unclear

Maldives
Unclear

Mali
Unclear

Malta
UCC Geneva Nov. 19, 1968

Mauritania
Unclear

Mauritius
UCC Geneva Mar. 12, 1968

Mexico
Bilateral Feb. 27, 1896
BAC Apr. 24, 1964
UCC Geneva May 12, 1957
UCC Paris Oct. 31, 1975
Phonogram Dec. 21, 1973

Monaco
Bilateral Oct. 15, 1952
UCC Geneva Sept. 16, 1955
UCC Paris Dec. 13, 1974
Phonogram Dec. 2, 1974

Mongolia
None

Morocco
UCC Geneva May 8, 1972
UCC Paris Jan. 28, 1976

Mozambique
Unclear

Nauru
Unclear

Nepal
None

Netherlands
Bilateral Nov. 20, 1899
UCC Geneva June 22, 1967

New Zealand
Bilateral Dec. 1, 1916
UCC Geneva Sept. 11, 1964
Phonogram Aug. 13, 1976

Nicaragua [1]
BAC Dec. 15, 1913
UCC Geneva Aug. 16, 1961

Niger
Unclear

Nigeria
UCC Geneva Feb. 14, 1962

Norway
Bilateral July 1, 1905
UCC Geneva Jan. 23, 1963
UCC Paris Aug. 7, 1974
Phonogram Aug. 1, 1978

Oman
None

Pakistan
UCC Geneva Sept. 16, 1955

Panama
BAC Nov. 25, 1913
UCC Geneva Oct. 17, 1962
Phonogram June 29, 1974
UCC Paris Sept. 3, 1980

Papua New Guinea
Unclear

Paraguay
BAC Sept. 20, 1917
UCC Geneva Mar. 11, 1962
Phonogram Feb. 13, 1979

Peru
BAC April 30, 1920
UCC Geneva Oct. 16, 1963

Philippines
Bilateral Oct. 21, 1948
UCC status undetermined by Unesco. (Copyright Office considers that UCC relations do not exist.)

Poland
Bilateral Feb. 16, 1927
UCC Geneva Mar. 9, 1977
UCC Paris Mar. 9, 1977

Portugal
Bilateral July 20, 1893
UCC Geneva Dec. 25, 1956

Qatar
None

Romania
Bilateral May 14, 1928

Rwanda
Unclear

Saint Lucia
Unclear

Saint Vincent and the Grenadines
Unclear

San Marino
None

Sao Tome and Principe
Unclear

Saudi Arabia
None

Senegal
UCC Geneva July 9, 1974
UCC Paris July 10, 1974

Seychelles
Unclear

Sierra Leone
None

Singapore
Unclear

Solomon Islands
Unclear

Somalia
Unclear

South Africa
Bilateral July 1, 1924

Soviet Union
UCC Geneva May 27, 1973

Spain
Bilateral July 10, 1895
UCC Geneva Sept. 16, 1955
UCC Paris July 10, 1974
Phonogram Aug. 24, 1974

Sri Lanka
Unclear

Sudan
Unclear

Surinam
Unclear

Swaziland
Unclear

Sweden
Bilateral June 1, 1911
UCC Geneva July 1, 1961
UCC Paris July 10, 1974
Phonogram Apr. 18, 1973

Switzerland
Bilateral July 1, 1891
UCC Geneva Mar. 30, 1956

Syria
Unclear

Tanzania
Unclear

Thailand
Bilateral Sept. 1, 1921

Togo
Unclear

Tonga
None

Trinidad and Tobago
Unclear

Tunisia
UCC Geneva June 19, 1969
UCC Paris June 10, 1975

Turkey
None

Tuvalu
Unclear

Uganda
Unclear

United Arab Emirates
None

United Kingdom
Bilateral July 1, 1891
UCC Geneva Sept. 27, 1957
UCC Paris July 10, 1974
Phonogram Apr. 18, 1973

Upper Volta
Unclear

Uruguay
BAC Dec. 17, 1919

Vanuatu
Unclear

Vatican City
(Holy See)
UCC Geneva Oct. 5, 1955
Phonogram July 18, 1977
UCC Paris May 6, 1980

Venezuela
UCC Geneva Sept. 30, 1966

Vietnam
Unclear

Western Samoa
Unclear

Yemen (Aden)
Unclear

Yemen (San'a)
None

Yugoslavia
UCC Geneva May 11, 1966
UCC Paris July 10, 1974

Zaire
Phonogram Nov. 29, 1977
For works other than sound recordings, unclear

Zambia
UCC Geneva June 1, 1965

Zimbabwe
Unclear

[1] Effective June 30, 1908, this country became a party to the 1902 Mexico City Convention, to which the United States also became a party effective the same date. As regards copyright relations with the United States, this convention is considered to have been superseded by adherence of this country and the United States to the Buenos Aires Convention of 1910.

[2] Bilateral copyright relations between Japan and the United States, which were formulated effective May 10, 1906, are considered to have been abrogated and superseded by the adherence of Japan to the Universal Copyright Convention, Geneva, 1952, effective April 28, 1956.

Section 104 of the copyright law (title 17 of the United States Code) is reprinted below:

§104. Subject matter of copyright: National origin

(a) UNPUBLISHED WORKS.—The works specified by sections 102 and 103, while unpublished, are subject to protection under this title without regard to the nationality or domicile of the author.

(b) PUBLISHED WORKS.—The works specified by sections 102 and 103, when published, are subject to protection under this title if—

(1) on the date of first publication, one or more of the authors is a national or domiciliary of the United States, or is a national, domiciliary, or sovereign authority of a foreign nation that is a party to a copyright treaty to which the United States is also a party, or is a stateless person, wherever that person may be domiciled; or

(2) the work is first published in the United States or in a foreign nation that, on the date of first publication, is a party to the Universal Copyright Convention; or

(3) the work is first published by the United Nations or any of its specialized agencies, or by the Organization of American States; or

(4) the work comes within the scope of a Presidential proclamation. Whenever the

President finds that a particular foreign nation extends, to works by authors who are nationals or domiciliaries of the United States or to works that are first published in the United States, copyright protection on substantially the same basis as that on which the foreign nation extends protection to works of its own nationals and domiciliaries and works first published in that nation, the President may by proclamation extend protection under this title to works of which one or more of the authors is, on the date of first publication, a national, domiciliary, or sovereign authority of that nation, or which was first published in that nation. The President may revise, suspend, or revoke any such proclamation or impose any conditions or limitations on protection under a proclamation.

Number of Registrations by Subject Matter of Copyright, Fiscal Year 1980

Category of material	Published	Unpublished	Total
Nondramatic literary works			
Monographs	97,538	21,683	119,221
Serials	117,898		117,898
Machine-readable works	986	866	1,852
Total	216,422	22,549	238,971
Works of the performing arts			
Musical works	27,771	92,427	120,198
Dramatic works, including any accompanying music	921	7,121	8,042
Choreography and pantomimes	20	43	63
Motion pictures and filmstrips	7,437	1,038	8,475
Total	36,149	100,629	136,778
Works of the visual arts			
Two-dimensional works of the fine and graphic art, including prints and art reproductions	9,738	6,489	16,227
Sculptural works	2,179	774	2,953
Technical drawings and models	447	387	834
Photographs	590	657	1,247
Cartographic works	817	8	825
Commercial prints and labels	4,525	197	4,722
Works of applied art	12,220	2,125	14,345
Total	30,516	10,637	41,153
Sound recordings	8,098	4,680	12,778
Multimedia works	1,958	123	2,081
Grand total	293,143	138,618	431,761
Renewals			32,982
Total, all registrations			464,743

Disposition of Copyright Deposits, Fiscal Year 1980

Category of material	Received for copyright registration and added to copyright collection	Received for copyright registration and forwarded to other departments of the Library	Acquired or deposited without copyright registration	Total
Nondramatic literary works				
Monographs, including machine-readable works	103,043	[1] 133,053	8,298	244,394
Serials		231,565	149,145	380,710
Total	103,043	364,618	157,443	625,104
Works of the performing arts				
Musical works; dramatic works, including any accompanying music; choreography and pantomimes	132,021	29,263	159	161,443
Motion pictures and filmstrips	3,870	[2] 4,605	93	8,568
Total	135,891	33,868	252	170,011
Works of the visual arts				
Two-dimensional works of fine and graphic art, including prints and art reproductions; sculptural works; technical drawings and models; photographs; commercial prints and labels; works of applied art	34,430	5,898	186	40,514
Cartographic works	8	1,634	730	2,372
Total	34,438	7,532	916	42,886
Sound recordings	4,068	4,030	784	8,882
Total, all deposits [3]	277,440	410,048	[4] 159,395	846,883

[1] Of this total, 38,400 copies were transferred to the Exchange and Gift Division for use in its programs.

[2] Includes 2,835 motion pictures returned to remitter under the Motion Picture Agreement.

[3] Extra copies received with deposit and gift copies are included in these figures. Totals include transfer of multimedia materials in any category.

[4] Of this total, 2,859 copies were transferred to the Exchange and Gift Division for use in its programs.

Summary of Copyright Business

Balance on hand October 1, 1979		$1,682,184.94
Gross receipts October 1, 1979 to September 30, 1980		4,961,982.34
Total to be accounted for		6,644,167.28
Refunded	$398,243.43	
Checks returned unpaid	11,533.55	
Transferred as earned fees	4,730,397.74	
Deposited as undeliverable checks	4,408.00	
Balances carried over October 1, 1980		
Deposit accounts balance	$783,499.27	
Unfinished business balance	743,828.85	
Card service	9,032.71	
Total		6,680,943.55
Less liability on advanced transfers		−36,776.27
Balance		6,644,167.28

	Registration	Fees earned
Published works at $6.00	71	$426.00
Unpublished works at $6.00	−20	−120.00
Renewals at $4.00	50	200.00
Published works at $10.00	293,072	2,930,720.00
Unpublished works at $10.00	138,632	1,386,320.00
Renewals at $6.00	32,854	197,124.00
Renewal supplementary registrations at $10.00	78	780.00
Total registrations for fee	464,737	4,515,450.00
Fees for recording documents		166,394.50
Fees for certified documents		34,694.60
Fees for searches made		107,635.00
Fees for import statements		1,140.00
Fees for deposit receipts		476.00
Fees for CATV documents		2,152.00
Fees for full-term storage of deposits		3.00
Fees for notice of use		79.00
Total fees exclusive of registrations		312,574.10
Total fees earned		4,828,024.10

Financial Statement of Royalty Fees for Compulsory Licenses for Secondary Transmissions by Cable Systems for Calendar Year 1979

Royalty fees deposited	$15,547,898.54	
Interest income on investments paid	615,353.13	
Gain on matured securities	685,825.41	
		$16,849,077.08
Less: Operating costs	239,628.90	
Refunds issued	69,347.30	
Investments purchased at cost	16,447,376.00	
		16,756,352.20
Balance as of September 30, 1980		92,724.88
Face amount of securities purchased		16,895,000.00
Cable royalty fees for calendar year 1979 available for distribution by the Copyright Royalty Tribunal		16,987,724.88

Financial Statement of Royalty Fees for Compulsory Licenses for Coin-Operated Players (Jukeboxes) for Calendar Year 1980

Royalty fees deposited	$1,066,267.50	
Interest income on investments	76,591.76	
		$1,142,859.26
Less: Operating costs	187,227.00	
Refunds issued	3,441.00	
Investments purchased at cost	928,926.12	
		1,119,594.12
Balance as of September 30, 1980		23,265.14
Face amount of securities purchased		935,000.00
Estimated interest income due September 30, 1981		91,766.26
Jukebox royalty fees for calendar year 1980 available for distribution by the Copyright Royalty Tribunal on October 1, 1981		1,050,031.40

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