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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

During fiscal 1981 the Copyright Office began to reach out to the greater copyright community through a variety of new means. The office also began to examine its own operations and its place in the world of intellectual property. These activities are particularly appropriate following, as they do, the enactment of a new copyright law, reorganization of the Copyright Office staff, appointment of a new Register of Copyrights, and the return of the office to Capitol Hill, all within the last few years.

Copyright Advisory Committee

Early in 1981 the Register of Copyrights, David Ladd, established, with the approval of the Librarian of Congress, Daniel J. Boorstin, a Copyright Advisory Committee. The principal function of this committee is to advise the Register on matters calling for consultation with copyright experts outside the Copyright Office. At the request of the Register, the committee will assist the office on matters relating to the administration of the U.S. copyright law, international copyright issues, the operations of the office, and related subjects. Those named to the committee, all prominent members of the copyright community, are: Eugene N. Aleinikoff, Jon A. Baumgarten, E. Fulton Brylawski, Leonard Feist, David Goldberg, Morton David Goldberg, Jack C. Goldstein, Alan J. Hartnick, Harry G. Henn, Walter J. Josiah, Irwin Karp, Dan Lacy, Alan Latman, Bella L. Linden, Paul Marks, John A. Marshall, Ernest S. Meyers, Melville B. Nimmer, Harry R. Olsson, E. Gabriel Perle, Barbara Ringer, Harry N. Rosenfield, Stanley Rothenberg, Robert Wedgeworth, and Theodora Zavin.

The first meeting of the committee was convened by the Register on April 13, 1981, in New York City. A number of the principal copyright issues of present concern were discussed.

150th Anniversary of Music Copyright in America

Musical compositions were specifically brought under copyright protection by the first general revision of the U.S. copyright law, which took effect February 3, 1831. The 150th anniversary of this enactment was celebrated in the Library of Congress with an evening reception in the atrium of the James Madison Memorial Building on February 3, 1981, immediately followed by a concert in the Coolidge Auditorium featuring nineteenth-century American popular music. Those attending this event, which was cosponsored by the National Music Publishers Association, included a number of well-known American composers and lyricists, senior legislators and government officials, and leaders in the entertainment and arts communities.

In addition, on February 10, 1981, the National Symphony Orchestra, conducted by Mstislav Rostropovich, dedicated to this anniversary a concert at the Kennedy Center for the Performing Arts entitled "America's Romantic Heritage." The concert was recorded and subsequently broadcast over National Public Radio, together with an interview of the Register of Copyrights by Martin Bookspan of the American Society of Composers, Authors and Publishers, the organization whose funding made possible the broadcast of the concert.

This anniversary was also celebrated elsewhere with special events and with proclamations by the mayors of New York, Los Angeles, and Nashville.

Copyright Office Officials Visit the People's Republic of China

In June 1981 an official U.S. delegation visited the People's Republic of China to discuss copyright issues of concern to both countries. The delegation consisted of the Register of Copyrights; Harvey Winter, Director of the Office of Business Practices, Department of State; Dorothy Schrader, General Counsel, Copyright Office; and Lewis Flacks, International Copyright Officer, Copyright Office. The purposes of the mission were to present lectures in Beijing and Shanghai on American copyright law (at the request of the Publishers Association of China) and to learn the status of Chinese preparation for the adoption of a domestic copyright law and for the establishment, on the basis of such a law, of copyright relations with the United States pursuant to mutual obligations assumed by both countries under the 1979 Bilateral Trade Agreement. Considerable interest was manifested in the lectures, and a clear resolve was apparent on the part of Chinese officials to adopt a copyright law.

Cost-Benefit Analysis of U.S. Copyright Formalities

The question of the value of copyright formalities has long been discussed. What are called formalities are conditions imposed, in the public interest, by the copyright law as prerequisites to the acquisition or exercise of rights or remedies against copyright infringement. The most important formalities under the U.S. copyright law are the provisions for notice of copyright on published works, for registration of copyright claims, and for recordation of copyright transfers.

In March 1981, in oversight hearings before the Subcommittee on Courts, Civil Liberties, and the Administration of Justice of the House Judiciary Committee, chaired by Rep. Robert W. Kastenmeier, the Register of Copyrights proposed a study to evaluate the costs and benefits of the copyright formalities which are a part of the present U.S. copyright system and to compare transactions under that system with those occurring in countries whose copyright systems have fewer or no formalities.

In September 1981, the Register announced that the Library of Congress had awarded to King Research, Inc., a contract to design a conceptual framework for such a study, to proceed with a pilot study of particular U.S. industries which rely on copyright protection, and to compare data developed from both the framework and the pilot study with similar data collected in certain other countries. A completed report is to be delivered to the Copyright Office by January 1, 1984.

General Accounting Office Study

The Copyright Office is also cooperating in a study of its operations currently being made by the General Accounting Office. This study, which was requested by the Subcommittee on Courts, Civil Liberties, and the Administration of Justice of the House Judiciary Committee, has been undertaken primarily to analyze the organizational structure of the Copyright Office, the efficiency of its workflow, and its productivity. The study is expected to focus on the line operations of the office, its productivity in general, and the gains made since the new copyright law took effect.

WORKLOAD AND PRODUCTION

Registrations attained an all-time high in fiscal 1981—a total of 471,178, as compared to 464,743 in fiscal 1980. This increase was

apparent in the totals both for original registrations of unpublished works and for renewal registrations: 148,072 unpublished (138,618 in 1980) and 34,243 renewals (32,982 in 1980). But original registrations for published works decreased slightly, the total being 288,863 in 1981 as compared to 293,143 in 1980. Total earned fees were also at an all-time high: $4,835,160.10.

General Operations

The six divisions of the Copyright Office perform its major line functions. During the year the staffs of all the divisions concentrated on accelerating the flow of work while at the same time improving its quality. These efforts were largely successful, despite the virtual elimination of overtime and other budgetary constrictions. Set forth below are some of the notable special events and achievements in each division.

Acquisitions and Processing Division

One of the functions of the Acquisitions and Processing Division is to obtain, through enforcement of the mandatory deposit provision of the copyright law, works published in the United States with notice of copyright, the purpose of this provision being to enrich the collections of the Library of Congress. By working in close cooperation with other departments of the Library and by initiating demands for deposit in appropriate cases, the division acquired thereby materials valued at more than $800,000 for the Library during fiscal year 1981.

Examining Division

The Examining Division is charged with the task of determining whether or not the registration requirements of the law have been met. At present some 25 percent of the incoming claims are not acceptable as initially submitted, and in these cases it is necessary for the examiner to communicate with the applicant. To deal in a more expeditious manner with those cases where the applicant can readily correct the difficulty preventing registration, the Examining Division has in an increasing number of cases telephoned the applicant in order to make registration without correspondence. This program has not only benefited the office by helping it to remain more nearly current but has also met with general approval by applicants.

Another important step by the Examining Division has been the attempt to deal more meaningfully with applications for the registration of computer programs. To this end, lectures and discussion sessions have been arranged for the examining staff by computer experts, both from within the Copyright Office and from the private sector.

Cataloging Division

The Cataloging Division continued to cope with a heavy workload and to prepare for publication of forthcoming issues of the *Catalog of Copyright Entries* in the form of microfiche. While the Cataloging Division continues to prepare for the adoption of the new *Anglo-American Cataloguing Rules,* implementation has been postponed until a later date.

Information and Reference Division

One of the most important functions of this division is the maintenance of the Public Information Office, where members of the public may come to file materials in person or to obtain general information about copyright. During fiscal 1981, a total of 9,855 persons visited this facility. This 30 percent increase over the previous year is attributable to the return, shortly before the beginning of fiscal 1981, of the Copyright Office to Capitol Hill from its previous location in Arlington, Virginia.

Records Management Division

During fiscal 1981 the Copyright Office Collections, consisting of some six million copyright desposits under the jurisdiction of the Records Management Division, were transported from the Library's Pickett Street Annex in Virginia to a new storage center in Landover, Maryland. Preparations were also being made for the microfilming of sheet music deposited for copy-

right registration since 1870. This extensive undertaking will be accomplished in cooperation with the Music Division of the Library of Congress. In general, the volume of work completed by the division increased during the year. Noteworthy was the increase in the number of catalog cards filed, from 1,650,000 in 1980 to 1,850,000 in 1981.

Licensing Division

The Licensing Division deals principally with payments made to the Copyright Office under the compulsory licensing provisions of the copyright law relating to coin-operated phonorecord players (jukeboxes) and cable television systems. This year the operations of the division have been affected by the fact that new royalty rates established by the Copyright Royalty Tribunal for both jukeboxes and cable systems have been challenged in litigation which is still pending. The result is that the division must operate much as in the past but have contingency plans ready for implementation when the court cases are finally decided.

Of particular interest in connection with operations under the jukebox provision is the fact that, for the third consecutive year, the number of licensed boxes has declined. In calendar 1978, the first year under this provision, 144,368 machines were licensed; in 1979, the number was 134,026; and, in 1980, the total was 129,073. The current financial statement of the Licensing Division with respect to the compulsory license for jukeboxes is appended to this report.

In the January–June 1981 accounting period, more than $11 million was deposited in the Copyright Office under the cable TV provision, a larger sum than in any earlier six-month period. The most recent financial statement concerning royalty fees paid by cable systems is included at the end of this report.

Automation

During the year the installation of the automated Correspondence Management System (CMS) for the Copyright Office was completed. In addition, the second phase of the Copyright In-Process System (COINS II), which tracks accounting transactions, went on-line in February 1981, and progress was made on the third phase (COINS III), which will provide a history of each registration and permit an analysis of workflow patterns within the office. Moreover, work continued on the development of the Copyright Office History Monograph (COHM) File, as an automated retrieval system for a segment of the Copyright Office Publication and Interactive Cataloging System (COPICS), in which all registrations and certain other data are recorded.

Compendium of Copyright Office Practices

The Copyright Office has inaugurated a program to develop and publish a new *Compendium of Copyright Office Practices* to reflect the examining and related practices of the office under the new copyright law. A compendium of practices under the previous law already exists and still applies to cases governed by its terms. It is an administrative manual, with an index, for the guidance of the staff in making registrations and doing related work. The existing compendium, now called *Compendium I*, will be retained. The new one, to be called *Compendium II*, will govern in matters arising under the new law. The public will be invited to comment on the contents of the new compendium before it is issued. Current plans call for it to be published in loose-leaf form to facilitate updating and to be sold by the Government Printing Office as a priced publication.

SPECIAL ACTIVITIES

A number of special activities also occupied the Copyright Office during the year.

The Manufacturing Clause

The so-called manufacturing clause, which has been a feature of American copyright law since 1891, provides in its present form that certain nondramatic literary works by U.S. citizens or domiciliaries must be manufactured in the United States or Canada in order to enjoy full copyright protection. Pursuant to the terms of the present statute, this provision will expire on July 1, 1982, unless the law is amended. At the request of Congress, the Copyright Office has completed a report on this provision. The con-

clusion stated by the report is that the manufacturing clause is a barrier to free trade, that it should not be a condition of copyright, that it is alien to the purposes of copyright law, and that the provision should be allowed to expire. The report also expressed the view that other remedies, such as subsidies, duties, import quotas, or tax credits, would be more appropriate to provide any needed protection for the U.S. printing industry. In studying this problem, the Copyright Office held meetings and hearings to solicit the views of the printing industry and the affected labor unions as well as those of authors and publishers. In addition, the office was aided in its consideration of the issues by the Library's Congressional Research Service and the Department of Commerce.

The question whether or not the manufacturing clause will be permitted to expire is raised by H.R. 3940, 97th Congress, 1st Session (1981), introduced by Rep. John M. Ashbrook. This bill would amend the copyright law by removing the July 1, 1982, expiration date. The fiscal year closed without any further legislative activity on the provision.

Off-the-Air Taping for Educational Uses

In 1979 the House Judiciary Subcommittee on Courts, Civil Liberities, and the Administration of Justice formed an ad hoc committee of interested persons from among educators, copyright owner interests, public broadcasters, and artists' guilds to go forward with discussions of possible guidelines on educational fair use of broadcast audiovisual works. Anthony P. Harrison, assistant register of copyrights, has aided in the work of the group. After numerous meetings, guidelines have now been produced whose central features are: (1) that off-air recordings can only be made at the request of, and can only be used by, an individual teacher and cannot be regularly recorded in anticipation of requests; (2) that there will be a fair-use preview period during which there can be a limited number of actual classroom uses, with additional time for use by the teacher to evaluate whether or not to add the program to the curriculum; and (3) that, at the end of the preview period, the tape must be erased unless permission of the copyright owner is obtained for longer retention.

In a 1978 court case involving off-air taping for educational use, *Encyclopaedia Britannica Educational Corp. v. Crooks,* 447 F. Supp. 243 (W.D.N.Y.), plaintiffs' motion for preliminary injunction was granted, the court stating that the scope of the activities of the defendants was difficult to reconcile with their claim of fair use, since the case did not involve an isolated instance of a teacher copying copyrighted material for classroom use but rather concerned a highly organized and systematic program for reproducing videotapes on a massive scale. This case is now moving toward a decision on the merits and may offer additional light on the question of fair use in this context.

Section 108(i) Report

Work continued during 1981 in preparation for the Copyright Office report on library photocopying and related activities, to be submitted to the Congress at the beginning of 1983 as required by section 108(i) of the new copyright statute. Several meetings were held with members of the advisory committee established in 1978 to aid the Register of Copyrights in connection with plans for this review. At two of these meetings a representative of King Research, Inc., the firm which received the contract to collect and evaluate data for this study, discussed its survey work. Also, the final in a series of regional hearings was held in New York City on January 28 and 29, 1981. Since that time a number of written comments have been received which have amplified the record created at the several hearings.

By the end of fiscal 1981 the work under the King contract was largely completed. Four surveys were carried out: two of libraries, one of them involving detailed questionnaires which were filled out by librarians and the other involving the keeping of rather extensive logs of photocopying transactions; one of library patrons; and one of publishers. Data from these surveys will be made available to the Copyright Office in December 1981. The final King report, due in March 1982, should provide quantitative information to complement the testimony and submissions presented at the hearings.

These two sources of information should contribute substantially to the Copyright Office report.

COPYRIGHT OFFICE REGULATIONS

Fiscal 1981 proved to be an active year within the Copyright Office for refinement of the office's statutory responsibilities through regulations. Many of the office's actions amended previously issued regulations in the light of further experience and changed circumstances. Other regulations were issued in final form for the first time during fiscal 1981.

Section 111 of the law 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 and revised in fiscal 1980. On July 28, 1981, the Copyright Office held a public hearing with representatives of the cable television and program supply industries to assist the office in considering alternatives, formulating tentative regulations to be issued later as proposed rules, and proposing revisions to the Statement of Account forms relating to computation of distant signal equivalents, logging of programming carried on a part-time basis, calculation of "basic service" gross receipts, identification and monitoring of FM radio signals carried on an "all-band" basis, specification of carriage of "local" television stations, and computation of royalties on Statement of Account form CS/SA-2.

The regulation implementing section 115, which provides for a compulsory license for making and distributing phonorecords, proved to be one of the most controversial regulations the Copyright Office was called upon to prepare. The compulsory license permits the use of a nondramatic musical work for this purpose 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 the section. Interim regulations were issued during fiscal 1978. On December 29, 1980, the Copyright Office issued final regulations intended to make the compulsory license workable while at the same time ensuring that copyright owners receive full and prompt payment for all phonorecords that are made and distributed under the license.

Section 410 of the law provides that the Register will determine whether or not the material deposited for registration constitutes "copyrightable subject matter"; if it does not, registration is to be refused. The Copyright Office held a public hearing during fiscal 1980 for the purpose of eliciting comments, views, and information to assist in drafting regulations governing policies and practices relating to the registration of the graphic elements involved in the design of books and other printed publications. A review of the relevant written comments and oral testimony led the office to conclude that much of the protection being sought for such works can be secured under current regulations and practices. Accordingly, the Copyright Office advised the public on June 10, 1981, that it was terminating its proposed rulemaking on the subject.

Paragraph (b) 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 May 29, 1981, the Copyright Office issued a final regulation governing the content and manner of service of the advanced notices.

Section 601(b)(2) of the copyright law permits the importation, under certain conditions, of 2,000 copies of copyrighted English-language nondramatic literary works by U.S. citizens or domiciliaries manufactured outside of the United States or Canada that otherwise would be excluded from importation under the manufacturing clause. One of the conditions under the provision is that the importer must present to the U.S. Customs Service an import statement issued by the Copyright Office. The office published an interim regulation during fiscal 1978 establishing requirements governing the issuance of such import statements. A final regulation on this matter was published during fiscal 1981.

The Copyright Office took two actions during fiscal 1981 relating to registration fees. Under section 708(c) of the copyright law, the Register is authorized to deduct all or any part of the registration fee otherwise prescribed by section 708, to cover the administrative costs of processing a refusal to register a claim to copyright. The Copyright Office issued an amendment to the regulations during fiscal 1981 with respect to

this provision permitting the office to retain fees submitted for registration in cases where an application is rejected. The amendment also provides that in cases of a mistaken or excess payment, refunds in the amount of five dollars or less will be made only on specific request.

The Copyright Office ordinarily examines claims to copyright and issues certificates of registration before any check received in payment of the statutory registration fee is returned as uncollectible. It had been the practice of the Copyright Office in cases where a check was returned as uncollectible to correspond with the remitter and request payment of the fee. If the fee had not been paid after several requests for payment had been sent, the office would then cancel the registration. A policy decision was announced during fiscal 1981 altering this practice so that when a check sent in payment of a fee is returned as uncollectible, any completed registrations for which the check was received will be immediately canceled. The remitter will be notified of the dishonored check and of the cancellation action and will be asked to return the certificate of registration.

Finally, the Copyright Office during fiscal 1981 adopted regulations removing or amending, as no longer applicable or as obsolete, certain portions of the Copyright Office Regulations. Thus, a section stating the prices for parts of the Catalog of Copyright Entries was deleted, since that information is no longer correct; a section dealing with catalog cards to be submitted in certain cases by the copyright claimant was deleted, since the requirement is not applicable under the new copyright law; a provision for a fee to be charged for the recordation of certain agreements between copyright owners and public broadcasting entities was removed, since it is no longer possible to record agreements of the kind in question; the section dealing with the recordation of notices of use was dropped, since the new law does not call for the recordation of notices of use; a section of the Copyright Office Regulations was amended to make clear that ad interim registrations are not possible under the new law; another section was amended to specify that the copyright notice provisions based on the copyright law of 1909, as amended, apply only to works published before January 1, 1978; and a section was amended to eliminate reference to certain classes of works established under the old law, since the new statute provides a new system of classification.

LEGISLATIVE DEVELOPMENTS

Fiscal 1981 marked a year of substantial congressional activity in the copyright field. While several proposals involved matters that might be considered part of the unfinished business of copyright revision, others reflect new concerns emanating from experience under the new law.

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. Congress therefore 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 made clear that rights existing under the act of 1909 were not to be cut off, nor were there created any new rights that might have been 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. Certain of CONTU's proposals were incorporated into H.R. 6934, 96th Congress, 2d Session (1980), entitled the "Computer Software Copyright Act of 1980," introduced by Rep. Robert W. Kastenmeier. The provisions of H.R. 6934 were merged with H.R. 6933, 96th Congress, 2d Session (1980) (section 10 of the later bill) before its passage by the House of Representatives and the Senate in November 1980. On December 12, 1980, President Carter signed the bill into law. Section 10 of the act amends section 101 of the copyright law to add a specific definition of "computer programs" and amends section 117 to provide authorization for making copies or adaptations of computer programs in limited cases and under certain conditions. The amendment also provides that:

> Any exact copies prepared in accordance with the provisions of this section [117] may be leased, sold, or otherwise trans-

ferred, 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.

Performance Royalty for Sound Recordings

One area of unfinished copyright revision business concerns the scope of rights in sound recordings. Attention during the last phase of the effort to revise the 1909 act focused on proposals for establishing a limited performance right for sound recordings in the form of a compulsory license, with payments to performers and producers of copyrighted sound recordings. Congress decided, however, that the problem required further study and deferred consideration of the matter.

Congressional momentum toward performance rights legislation for sound recordings continued in the first session of the 97th Congress with the introduction of H.R. 1805, 97th Congress, 1st Session (1981), by Rep. George E. Danielson. The House Judiciary Subcommittee on Courts, Civil Liberties, and the Administration of Justice held public hearings on this subject on June 10 and July 22, 1981. The Register of Copyrights testified on the latter date in support of a performance right for sound recordings under a compulsory license. The Register expressed the hope that voluntary licensing organizations could ultimately be employed to assume the collection and distribution functions.

Protection of Ornamental Designs

Another piece of unfinished copyright revision business concerns proposed legislation for the protection of ornamental designs of useful articles. The current effort to enact such a bill began with the introduction of a design protection measure in 1957. A design bill was reported as title II of the general revision bill, S. 22, 94th Congress, 1st Session, and passed by the Senate in 1975. Ultimately, however, the design provisions were deleted before passage of the final conference version of the bill, since the unresolved issues they raised might have caused further delay in acceptance of basic copyright reform. Congressional interest in protection for ornamental designs continued in fiscal 1981 with the introduction of H.R. 20, 97th Congress, 1st Session (1981), by Rep. Tom Railsback. With a few exceptions, the bill is patterned after the design protection provisions of S. 22 as passed by the Senate in 1975.

Cable Television

Section 111 of the statute provides a compulsory licensing mechanism covering certain secondary transmissions made by cable television systems. The effectiveness of and need for this provision were examined during fiscal 1981 by both houses of Congress. On April 29 and July 29, 1981, the Senate Committee on the Judiciary held public hearings relating to this issue. The House Judiciary Subcommittee on Courts, Civil Liberties, and the Administration of Justice held eight days of public hearings between May 14 and July 22, 1981, to study the issue in general and consider three bills: H.R. 3560, 97th Congress, 1st Session (1981), introduced by Rep. Robert W. Kastenmeier; and H.R. 3528, 97th Congress, 1st Session (1981), and H.R. 3844, 97th Congress, 1st Session (1981), both introduced by Rep. Barney Frank. H.R. 3560 would amend section 111 to provide greater protection for program suppliers while at the same time ensuring continued cable access to broadcast signals through compulsory licensing. Both H.R. 3528 and H.R. 3844 would, in general, amend section 111 to eliminate the compulsory license for secondary transmission by cable television systems of distant, non-network programming and replace it with full liability. On April 29 and July 22, 1981, the Register of Copyrights testified before the Senate Judiciary Committee and the House Judiciary Subcommittee, respectively, and suggested that Congress amend section 111 to:

1. Eliminate the section 111 compulsory license for secondary transmission by cable systems;

2. Exempt from copyright liability the simultaneous secondary transmission by cable systems of signals containing network programming only to the extent necessary to assure a full complement of network signals in markets that lack one or more of the three national television networks.

3. Exempt from copyright liability the simultaneous secondary transmission of local signals by cable systems;

4. Clarify the present section 111(a)(3) exemption to make clear that the activities of satellite resale carriers are subject to full copyright liability; and

5. Provide for a transition period during which the present section 111 would remain in effect.

The House Judiciary Subcommittee is expected to mark up these three bills at a later date.

Increased Penalties for Piracy and Counterfeiting

Several bills were introduced in Congress proposing to strengthen the laws against record, tape, and film piracy and counterfeiting. Among these, H.R. 8285, 96th Congress, 2d Session (1980), introduced by Rep. Robert F. Drinan, would amend titles 17 and 18 of the United States Code to raise the penalties for criminal copyright infringement presently provided for in section 506(a) of the copyright law. The 96th Congress ended without any further consideration of the matter. However, activity increased in 1981 with the introduction of S. 691, 97th Congress, 1st Session (1981), introduced by Sen. Strom Thurmond, and H.R. 3530, 97th Congress, 1st Session (1981), introduced by Rep. Barney Frank. Both of these bills are patterned after H.R. 8285. The Senate Committee on the Judiciary held a public hearing on the subject in June 1981. This hearing was followed by public hearings before the House Judiciary Subcommittee on Courts, Civil Liberties, and the Administration of Justice on July 8 and 22, 1981. As part of these hearings the Register of Copyrights testified generally in support of the legislation. The House Judiciary Subcommittee is expected to mark up H.R. 3530 early in fiscal 1982.

Exemptions of Certain Performances and Displays

Several bills were introduced in the Senate and the House seeking to broaden three exemptions found in section 110 of the copyright statute: S. 603, 97th Congress, 1st Session (1981), introduced by Sens. Edward Zorinsky, Strom Thurmond, Dennis DeConcini, Thad Cochran, Alan K. Simpson, and John Melcher, and H.R. 2108, 97th Congress, 1st Session (1981), introduced by Rep. Brian J. Donnelly, would amend section 110 by adding a new subsection which would exempt nonprofit veterans' and fraternal organizations from performance royalties for the performance of nondramatic literary works and musical works in the course of their activities; H.R. 2108 would also expand the educational exemption found in section 110(1) of the law by exempting profit-making educational institutions, in addition to currently exempting nonprofit 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. H.R. 2007, 97th Congress, 1st Session (1981), introduced by Rep. C. W. Bill Young, and H.R. 3408, 97th Congress, 1st Session (1981), introduced by Rep. Eugene Johnston also would amend section 110 by adding a new subsection which would exempt nonprofit veterans' and fraternal organizations from certain performance royalties. These two bills limit the exemption, however, to performance of musical works in the course of their activities.

Two other bills, H.R. 2006, 97th Congress, 1st Session (1981), and H.R. 3392, 97th Congress, 1st Session (1981), both introduced by Rep. C. W. Bill Young, would broaden the exemptions in subsections (1), (3), and (4) of section 110 with respect to performances by educational institutions, religious organizations, and nonprofit organizations in general. The former bill also would limit the exercise of exclusive rights in copyrighted works by copyright owners under section 106 to "for-profit" uses.

The House Judiciary Subcommittee on Courts, Civil Liberties, and the Administration of Justice conducted public hearings on this issue on May 28 and July 22, 1981. The Register of Copyrights testified on the latter date in opposition to any change in section 110. Fiscal 1981 ended without any further consideration of these bills.

Rights of Artists

A bill to create an American version of the European concept of the "droit moral," H.R. 2908,

97th Congress, 1st Session (1981), was introduced by Rep. Barney Frank. This bill, which is patterned after similar bills, H.R. 288, 96th Congress, 1st Session (1979), and H.R. 8261, 95th Congress, 1st Session (1977), both introduced by Rep. Robert F. Drinan, reflects the growing concern among artists and their representatives over protection of the moral right in their works. The purpose of the bill is to secure the right of artists of pictorial, graphic, or sculptural works to prevent their distortion, mutilation, alteration, or destruction. The legislation also seeks to protect the honor and reputation of artists in relation to their works.

Concern for the rights of artists also has been evidenced in the Oregon state senate. Senate Bill No. 729 (1981) would give an employee the right to copyright or patent any design he or she created during his or her employment. Senate Bill No. 730 (1981) would reserve the reproduction rights to authors of fine art works despite a sale or other transfer of the original work. It would also reserve to authors of other works, including motion pictures and pictorial works, the title to the physical works after the author has transferred any right of performance or reproduction. Both of these bills are sponsored by the Oregon State Senate Committee on Trade and Economic Development.

Other Legislative Activities

Several bills were introduced in Congress proposing tax incentives in the fields of the arts and humanities. H.R. 148, 97th Congress, 1st Session (1981), introduced by Rep. William M. Brodhead, and H.R. 444, 97th Congress, 1st Session (1981), introduced by Rep. Frederick W. Richmond, would amend the Internal Revenue Code of 1954 to remove certain limitations with respect to charitable deductions of literary, musical, or artistic compositions.

Sen. Daniel P. Moynihan introduced three bills concerning tax treatment of copyrighted works: S. 3175, 96th Congress, 2nd Session (1980), and S. 851, 97th Congress, 1st Session (1981), would amend the Internal Revenue Code of 1954 to increase the amount that an artist may deduct when contributing an artistic composition to charity; S. 852, 97th Congress, 1st Session (1981), would provide a tax credit for certain contributions of literary, musical, or artistic compositions to certain organizations or to government agencies.

A bill introduced by Rep. Peter W. Rodino, Jr., H.R. 4441, 97th Congress, 1st Session (1981), would amend the copyright statute to provide for a filing fee in lieu of a registration fee for original, supplementary, and renewal copyright claims. Section 708 of the copyright law would be changed to allow the Copyright Office to retain the fee submitted on filing each application for registration under sections 408 and 304(a) in cases where registration is not made.

JUDICIAL DEVELOPMENTS

Cases selected for inclusion in this year's report come from four broad categories. First, the most important infringement case in several years, *Universal City Studios, Inc. v. Sony Corp. of America*, 659 F.2d 963 (9th Cir. 1981), although decided shortly after the close of fiscal 1981, is included here because of its great significance. Several other cases construe provisions of the 1976 Copyright Act for the first time. Another group of cases deal with the issues relating to the scope of copyright in computer programs, particularly when such programs are embodied in semiconductor chips. Finally, several cases construe Copyright Office regulations and practices, including two cases in which the Register of Copyrights was a party.

In the *Sony* case, decided on October 19, 1981, the Court of Appeals for the Ninth Circuit held that home videotaping of television programs was an infringement of copyright because it was neither fair use nor outside the scope of 17 U.S.C. 106(1), which gives copyright owners the power to control most reproductions of their works. In so doing, the court reversed the decision below, 480 F. Supp. 429 (C.D. Cal. 1979), which had held that home videotaping, at least with respect to works broadcast without charge to viewers, was not an infringement.

The appellate opinion, rather than ordering a specific remedy, remanded the case to the trial court for that purpose. Although it left open the possibility that an injunction against further sales of videotape recorders might be ordered (the trial court had originally held that an injunction would not be appropriate even if home taping

were held to be infringing), the Court of Appeals noted that when great public injury would result from an injunction, a court could award damages or a continuing royalty and that such "may very well be an acceptable resolution in this context."

The court based its holding upon several determinations. It concluded that Congress had provided limitations to copyright owners' exclusive rights in 17 U.S.C. 107–118 and therefore that the absence of any treatment of home videotaping in those sections was a strong argument against the existence of a special exemption. It further noted in this regard that the legislative history of the Sound Recording Act of 1971, although instructive regarding congressional intent not to restrict home *audio* taping off the air, was "entirely beside the point" in analyzing *video* taping issues.

Of perhaps even greater importance to copyright jurisprudence generally was the court's discussion and holding concerning fair use, inasmuch as some litigation and much debate have centered on the notion that fair use is an appropriate tool for accommodating copyright principles to rapid technological change. Citing cases and commentary, the Ninth Circuit expressed its position that fair use had traditionally involved what might be termed the "productive use" of copyrighted material. As the basis for the contention that in recent years the courts have not adhered to the traditional view of fair use, the court mentioned two cases: the lower court's opinion in *Sony*, and *Williams & Wilkins Co. v. United States*, 487 F.2d 1345 (Ct. Cl. 1973), which was affirmed by an equally divided Supreme Court in 420 U.S. 376 (1975). In reviewing the district court's holding in the former, the court turned its attention to the latter. It described *Williams & Wilkins* as being both "clearly distinguishable" and "singularly unpersuasive." The Court of Claims' concern with medical science had no logical counterpart in the *Sony* case and, at all events, according to the Ninth Circuit, there is no question that the copying of entertainment works for convenience does not fall within the category of nonprofit educational purposes.

The court did not stop with this distinction, however; it went on to state that:

> the Court of Claims' approach—in treating intrinsic use of such work as within the bounds of fair use—created doctrinal confusion that raises the spectre of the evisceration of the traditional workings of the copyright scheme.

Williams & Wilkins, at least in this court's view, put an undue burden on the copyright system and on copyright owners by fundamentally restructuring the former and by placing the latter in the almost impossible position of having to prove the nonexistence of fair use, rather than leaving it to defendants to prove its existence. The court characterized the framework for copyright litigation established by such a view as "ultimately hostile and extremely adverse to the rights of copyright holders." Finally, the appellate court acknowledged, as had the trial court, that ultimate resolution of this dispute involves a public policy determination that is preeminently a decision for the legislative branch of government.

The practical and conceptual problems inherent in attempting to reconcile copyright and communications law have frequently created problems for copyright owners, legislators, and courts. A new development, requiring construction of the complex cable television provisions of 17 U.S.C. 111, appeared for the first time in *WGN Continental Broadcasting Co. v. United Video, Inc.*, Copyright L. Rptr. (CCH) ¶25,318 (N.D. Ill., Sept. 30, 1981). The broadcast signal of plaintiff, a Chicago television station, contained, in addition to the copyrightable program, certain teletext material (known as the vertical blanking interval or VBI) used to synchronize television receivers with the signal or to provide closed captions for the deaf. The VBI in plaintiff's signal is not essential to defendant's retransmission of the signal to its customers, since defendant, as a microwave and satellite common carrier licensed by the Federal Communications Commission to relay conventional television signals containing both picture and sound portions, does not transmit directly to the ultimate television receiver, and vertical blanking is not integral to such television relay or transmission. Because it is more efficient and economical, defendant deleted the VBI from plaintiff's signal before transmitting the signal to the satellite. However, since a VBI is ultimately essential to television reception, defendant reinserts its own VBI into the signal before making the signal available to its cable system customers.

Plaintiff brought an action for injunctive relief, alleging that defendant's deletion and substitution of its own teletext information constituted copyright infringement and destroyed defendant's exempt status as a passive carrier

under the provisions of 17 U.S.C. 111(a)(3). Denying plaintiff's motion for a permanent injunction, the court granted United Video's motion for summary judgment, holding that deletion of teletext material included in the VBI portion of the signal is not such an alteration of the copyrighted program as would deprive the satellite operators and carrier of its statutory exemption.

Although the court considered other issues raised by the defendant moot in the light of its above holding, it addressed them as alternative grounds of decision and also resolved them in defendant's favor. In one such issue, the court ruled that a single copyright registration for both the television program (that is, the audiovisual work) and the teletext information included in the VBI was not proper. Two separate works were being transmitted simultaneously, and each should have been copyrighted separately. A common carrier which deleted the teletext portion of the signal did not alter the program portion and was not liable for copyright infringement. The court also noted that a satellite common carrier that retransmits television signals to cable television systems for retransmission by them to the subscribing members of the public does not perform copyrighted works publicly and thus does not infringe the copyright of the television station whose signal is retransmitted in the program, even though the vertical blanking interval of the station's transmitted signal is deleted. Retransmission of a copyrighted program without authorization is an infringing performance only if it is made to the public. However, cable television systems are not the public; their subscribers are the public. The defendant's contention was upheld that it did not directly transmit to the public.

One of the most important changes effected by the new copyright law concerned omission of the copyright notice from copies of a published work. Under the current law, such omission no longer immediately places the work in the public domain. If certain steps are taken thereafter, the copyright is not invalidated. One of the curative steps provided in 17 U.S.C. 405(a)(2) is that the copyright owner must make "a reasonable effort" to add notice to all copies or phonorecords that are distributed to the public in the United States after the omission has been discovered.

This question arose in an action for copyright infringement and unfair competition brought by the owner of a distinctive floral design on vases who had obtained four copyright registrations. In *Florists' Transworld Delivery Ass'n v. Reliable Glassware & Pottery Co.*, Copyright L. Rptr. (CCH) ¶25,301 (N.D. Ill., May 11, 1981), defendant's motion for summary judgment framed the issue as to whether a copyright owner's effort to remedy the absence of notice was "reasonable." Plaintiff had manufactured and packaged 914,000 Mother's Day vases with a floral design affixed to them. Just before they were shipped, the absence of the copyright notice was discovered, but the plaintiff nevertheless decided to ship the vases to retailers along with gummed labels containing the notice and instructions to affix a label to each vase. Apparently, most copies were sold to the public without having the labels affixed. The advertisements and promotional pamphlets of the vase sent to plaintiff's approximately 18,000 member florists also lacked copyright notice. The magistrate held that the copyright was forfeited because the plaintiff, after discovering the omission, chose to ship the vases anyway, and they were thereafter sold, for the most part, without any notice. However, the court refused to adopt the magistrate's holding unqualifiedly and denied the motion for summary judgment, observing that the question of whether or not a "reasonable effort" was made under 17 U.S.C. 405(a)(2) must await a complete hearing on that material issue of fact.

Another case of first impression involving a question of notice was *Quinto v. Legal Times of Washington*, 506 F. Supp. 554 (D.D.C. 1981), in which the "innocent infringer" portion of 17 U.S.C. 406(a) was at issue. The defendants in this copyright infringement action had republished most of an article written by the plaintiff and first published in a law school student newspaper. Although the article as originally published did not bear a separate copyright notice, the masthead of the student newspaper carried a copyright notice in the name of the corporate publisher. Plaintiff registered a claim to copyright in his article with the U.S. Copyright Office. In granting plaintiff's motion for summary judgment with an award of both statutory damages and attorney's fees, the court found as a matter of law that defendant publisher's managing edi-

tor, himself a member of the bar, did not satisfy the standard of reasonableness in that he failed in his duty to inquire whether the student newspaper owned the copyright to plaintiff's article and thus was precluded from claiming that he was misled and had acted in good faith. Section 406(a) of the statute not only requires honesty in fact, which the court assumed in this case, but reasonableness as well.

Replying to defendants' contention that the court lacked subject matter jurisdiction because of plaintiff's failure to record a transfer of copyright in the Copyright Office as required by 17 U.S.C. 205(d), the court ruled that under 17 U.S.C. 201(c), the assignment from the student newspaper to the plaintiff had no legal effect because the newspaper at no time owned the copyright in plaintiff's article and hence had no rights to assign. Plaintiff's claim to copyright derived from authorship and not from a transfer. The court also rejected defendants' fair-use defense, noting that the admitted reprinting of about 92 percent of plaintiff's article precluded such a defense under the prior law as well as under the current act where, as in this case, there has been extensive verbatim copying or paraphrasing.

The manufacturing provisions of the current act, by the terms of 17 U.S.C. 601(a), apply only to works of certain authors consisting "preponderantly of nondramatic literary material that is in the English language." In *Stonehill Communications, Inc. v. Martuge,* 512 F. Supp. 349 (S.D.N.Y. 1981), plaintiff which had published a book describing the attractiveness of the lifestyle associated with nude beaches and where to find such beaches sought review of a Customs Service determination that the book, more than half of which consisted of photographs, violated section 601(a) and was, therefore, ineligible for importation. Granting plaintiff's motion for summary judgment, Judge Weinfeld held that, in the absence of any other standards, a book consists "preponderantly" of nondramatic literary material in the English language "when more than half of its surface area, exclusive of margins, consists of English language text. Thus, plaintiff's book is not subject to the manufacturing clause and is entitled to be distributed within the United States with copyright protection." The court observed that the determination of whether a book consisting of both textual and pictorial matter is subject to the manufacturing requirements of the law could not rest on a single customs official's judgment as to which portion of the book is "more important." Characterizing the Customs Service's ruling as "arbitrary and capricious," the court noted that such a vague standard "leaves authors and publishers without any guide while not providing any significant advantage to printers, the intended beneficiaries of the clause."

The relationship between copyright and trade secrecy protection in the computer industry arose in *Warrington Associates, Inc. v. Real-Time Engineering Systems, Inc.,* Copyright L. Rptr. (CCH) ¶25,316 (N.D. Ill., Aug. 26, 1981), an action for copyright infringement, unfair competition, and conspiracy and misappropriation of secret computer software programs. Denying defendant's motion for summary judgment as premature, the court found that the fact that a computer program manual had been registered for copyright as an unpublished work did not preclude an action under state law for violation of trade secrets confidentiality, assuming such confidential relationship exists, since neither Congress nor the courts have viewed the current copyright act as preempting the common law of trade secret misappropriation. There is a substantial difference between a copyright of an "expression" of an idea and the protection given to the "idea" expressed by the trade secrets laws. While the concurrent existence of a copyright in the expression and trade secrets right in the idea itself is allowed, the confidential nature of the disclosure and the extent to which the work has been disclosed to others is a matter for trial of the facts.

The question of whether the act of affixing a statutory notice of copyright to computer "software" manuals, under the 1909 act, as amended, bars common-law copyright and trade secret claims arising from unauthorized use of those documents was considered in *Technicon Medical Information Systems Corp. v. Green Bay Packaging, Inc.,* 211 USPQ 343 (E.D. Wis. 1980), an action for common-law copyright infringement, trade secret misappropriation, and unfair competition. Granting defendant's motion for summary judgment as to the common-law copyright claim only, the court ruled that plaintiff had effectively notified the general public that it has invoked statutory copyright protection commencing from the year date in the notice. Furthermore, said the court, by invoking statutory copyright

"to the extent of even printing a date of publication," the plaintiff has chosen to forgo his common-law copyright in exchange for the statutory copyright. The court concluded that once publication with notice had occurred to any degree, the works were at least potentially protected by the federal statute and the plaintiff was estopped from further asserting any common-law copyright protection. However, the court was not willing to conclude that the mere act of affixing a copyright notice to computer manuals is conclusive proof of publication so as to defeat any claim of secrecy, at least at the summary judgment stage.

These were not the only copyright issues of importance to the computer industry. One of the fastest growing segments of that industry manufactures and markets video games, in which microcomputers with "Read Only Memory" (ROM) capability are used in conjunction with television screens and manual controls to permit the playing of various games. Because the most important parts of the machines, the silicon chip ROMs, can readily be duplicated at far less cost than was required for their initial development, their proprietors sought legal relief against allegedly unauthorized duplication by registering claims to copyright in the repeating "attract mode" (a fixed summarization of the game for prospective players) and of the "play mode" (the game being played) as audiovisual works, and thus obtaining registration certificates which were used successfully in copyright infringement actions in three courts and one administrative agency: *Stern Electronics, Inc. v. Kaufman*, Copyright L. Rptr. (CCH) ¶25,272 (E.D.N.Y., May 22, 1981); *Midway Mfg. Co. v. Artic Int'l, Inc.*, No. 80–C–5863 (N.D. Ill., June 2, 1981); *Midway Mfg. Co. v. Dirkschneider*, Civ. A. No. 81–0–243 (D. Neb., July 15, 1981); and *In re Certain Coin-Operated Audio-Visual Games and Components Thereof*, Copyright L. Rptr. (CCH) ¶25,299 (U.S. Int'l Trade Comm'n, June 25, 1981).

Computer program information imprinted directly onto silicon chips and in that form permanently wired into the computer provided the focus of dispute in *Tandy Corp. v. Personal Micro Computers, Inc.*, Copyright L. Rptr. (CCH) ¶25,303 (N.D. Cal., Aug. 31, 1981). The defendants urged the court to reject plaintiff's claim of copyright infringement of the computer program on the ground that such ROM chips (so designated because this type of information storage is called "Read Only Memory") are not "copies" of the original computer program within the meaning of the copyright act, and that therefore a ROM chip which is a copy of another ROM chip does not infringe the copyright covering the original program. However, the court did not accept this argument and denied the defendants' motion to dismiss, observing that the duplication of a ROM chip is simply the copying of a chip and not the "use" of a copyrighted program "in conjunction with" a computer within the meaning of 17 U.S.C. 117, as it existed in the 1976 copyright act. The court was convinced that under the provisions of sections 101 and 102 of that act, a computer program is a "work of authorship" subject to copyright, and that a silicon chip is a "tangible medium of expression" within the meaning of the statute. Any other interpretation would, in the court's opinion, "render the theoretical ability to copyright computer programs virtually meaningless." As an additional reason for its ruling, the court noted that, regardless of the merits of defendants' argument concerning the direct duplication of the silicon chip, plaintiff's evidence may show that the chip was duplicated by first taking a visual display or printout of the program in question, making a copy of that display or printout, and then having that program imprinted onto a silicon chip.

Of the several cases in which Copyright Office practices were directly or tangentially at issue, two involved the Register as one of the defendants. In both *Schnapper v. Foley*, Copyright L. Rptr. (CCH) ¶25,315 (D.C. Cir., Oct. 1, 1981), and *Norris Industries, Inc. v. Int'l Telephone & Telegraph Corp.*, Copyright L. Rptr. (CCH) ¶25,310 (N.D. Fla., Aug. 12, 1981), courts upheld the Copyright Office's position and refused to grant plaintiffs the relief they sought.

In *Schnapper*, the Court of Appeals for the District of Columbia affirmed the trial court's dismissal of the action, concluding that neither the 1909 nor 1976 act proscribes the copyright registration of works commissioned by the U.S. Government (as distinguished from works authored by employees or officers of the United States as part of such persons' official duties) and that Congress possessed the power to enact these laws.

In *Norris Industries,* the Copyright Office had registered a claim in an automobile wheel cover design during the interim between the district court's decision in *Esquire v. Ringer,* 414 F. Supp. 939 (D.D.C. 1976), and the appellate court's reversal of that decision, 591 F.2d 796 (D.C. Cir. 1978), *cert. denied,* 440 U.S. 908 (1979). After the reversal in *Esquire,* the office refused registration for other wheel cover designs submitted by plaintiff, but it did not cancel the earlier registration. Norris then brought this action seeking relief with respect to the claims for which registration had been refused. Ruling favorably on the motion of the Register of Copyrights for summary judgment, the court found the "Register's categorization of simulated wire wheel covers as 'useful articles' . . . to be logical and proper." Moreover, noted the court, in essence, "Norris seeks to claim copyright in the overall shape of a useful article, the same objective as that of the claimant in *Esquire,* asserting the exact proposition which the Register and the appellate court rejected in that case. The prior Norris wheel cover registration, granted in the wake of a court decision which was later soundly reversed, does not indicate any misappropriation of the copyright statute and its regulations in the subsequent denials of registration."

The evidentiary weight to be afforded certificates of registration was at issue in two reported cases: *Urantia Foundation v. Burton,* 210 USPQ 217 (W.D. Mich. 1980), and *Goldsmith v. Max,* Copyright L. Rptr. (CCH) ¶25,248 (S.D.N.Y., Mar. 31, 1981). In *Urantia,* the court held that, although plaintiff copyright owner had knowingly and incorrectly attributed authorship in a work to itself on its application (and thus it so appeared on the certificate), the certificate did nevertheless constitute prima facie evidence of the validity of the copyright, since the plaintiff's misstatement did not affect the decision of the Copyright Office and was not intended to defraud anyone. However, the court ruled that the defendant's evidence regarding authorship shifted the burden to the plaintiff to demonstrate its claim of copyright as an assignee of the rights of the author. Plaintiff's motion for summary judgment was granted on the ground that plaintiff had successfully met its evidential burden on the question of ownership of rights.

In *Goldsmith,* on the other hand, the court refused "to afford the copyright registration a rebuttable presumption of validity." The evidence showed that plaintiff's 1972 photograph had been published without notice of copyright before 1978 in the form of a poster, a pillow, and in a magazine. In 1979 the author registered a claim to copyright in the photograph as an unpublished work. The court awarded judgment to the defendant, having found that the plaintiff's photograph entered the public domain before January 1, 1978, and that, accordingly, plaintiff's copyright is invalid and could not be infringed.

Other cases of interest to the Copyright Office include *Hospital for Sick Children v. Melody Fare Dinner Theatre,* 516 F. Supp. 67 (E.D. Va. 1980); *Harper & Row Publishers, Inc. v. Tyco Copy Service, Inc.,* Copyright L. Rptr. (CCH) ¶25,230 (D. Conn., Jan. 19, 1981); and *Co-opportunities, Inc. v. National Broadcasting Co.,* 510 F. Supp. 43 (N.D. Cal. 1981).

In *Hospital for Sick Children,* which concerned the allegedly infringing public performance of *Peter Pan or the Boy Who Would Not Grow Up,* the court was not troubled by the fact that the copy of the work deposited for registration in the Copyright Office in 1928 could not be found. Based on testimony at the trial, it accepted plaintiff's position that the copy it offered in evidence was of the same work as that for which registration had been made.

In *Tyco Copy Service,* a commercial photocopying service entered into a consent decree under which it agreed to do no multiple copying in the absence of permission from the copyright owner or the receipt of a request from a faculty member of a nonprofit educational institution who certifies that the copies to be made are in full compliance with the conditions contained in the "Agreement on Guidelines for Classroom Copying in Not-For-Profit Educational Institutions With Respect to Books and Periodicals" in H.R. 94–1476, 94th Cong., 2d Sess. 68–70 (1976).

Finally, in *Co-opportunities,* one of the questions confronting the court was whether a timely recordation in the Copyright Office of a "Notice of Assignment of Copyrights" which was not itself the "instrument of transfer" satisfied the requirements of 17 U.S.C. 205(d) so as to give the transferee standing to bring a copyright infringement action. Resolving the issue in plaintiff's favor, the court called attention to a provision in the regulations of the Copyright Office

stating that recordable documents shall include any transfer of copyright ownership "(including any instrument of conveyance, or note or memorandum of the transfer). . . ." 37 C.F.R. 201.4(c). Such wording, observed the court, "suggests that the phrase 'instrument of transfer' is to be interpreted broadly." The court found further that, even if recordation of the "Notice of Assignment" failed to meet the statutory prerequisites for commencing a copyright infringement action, a subsequent recordation of the assignment itself sufficiently cured the defect that gave plaintiff assignee the right to sue as of the date of the filing of the action.

INTERNATIONAL DEVELOPMENTS

In 1981 international copyright continued to concern itself with two principal tasks: assessing the impact of new technology upon the rights of authors and copyright proprietors, and facilitating access to protected works by developing countries. In the former area, action has been more tentative and exploratory; in the latter, significant developments in the implementation of the Universal Copyright Convention's and Berne Convention's preferential system for developing states took place.

New Technological Developments and Copyright Law

That international copyright law has approached new technologies with many questions but few answers should be no surprise: this has also been the experience at the national level, in the United States and elsewhere. As noted earlier, we have only begun to see the development of legislation and of case law governing the protection of computer programs, works fixed in computer programs, and home video recording. Thus it is hardly surprising that international law is moving at least as deliberately as has that of the United States.

At the nongovernmental level, Copyright Office specialists have discussed the question of computer uses of protected works and copyright protection for software at domestic and foreign meetings. On October 10, 1981, Michael S. Keplinger, chief of the Information and Reference Division of the Copyright Office and formerly deputy director of the Commission on New Technological Uses of Copyrighted Works, addressed a conference of computer specialists in Kyoto, Japan. Bringing together experts from a number of developed states, the Kyoto conference explored a variety of legal questions arising out of the growth of national and international data networks and traditional means of scientific data dissemination.

On September 23, 1981, in Toronto, Canada, the Register of Copyrights spoke to the Congress of the Internationale Gesellschaft für Urheberrecht (INTERGU) on the challenge to copyright policy posed by the spread of home video recording technology. Expressing concern over the appropriateness of judicial policymaking in this area, the Register urged authors' groups to press national legislatures to adopt appropriate measures to protect both copyright markets and consumers of video hardware.

At the intergovernmental level, a Committee of Governmental Experts on Copyright Problems Arising from the Use of Electronic Computers met in Geneva from December 15 to 19, 1980. Representatives of thirty-five states and thirteen international nongovernmental organizations considered the copyright implications of storage and retrieval of protected works, problems in the administration of rights, and the use of computers for the creation of works.

The committee's wide-ranging debates disclosed little unanimity: the opinion that existing copyright principles can justly be applied to computer uses of protected works gathered support, while some delegations expressed doubts about whether present domestic and international regimes adequately cover all situations arising out of the computer use of protected works.

Perhaps most significantly, several delegates expressed disagreement with an earlier working group's conclusion that programs themselves may not be considered as a subject matter of copyright.

In other respects, they could reach some consensus: that input of protected material and hard-copy printout constituted "reproduction" within the meaning of international conventions and domestic legislation. When it came to the projection or display of text (as on a cathode ray tube), however, views were less united. Some experts regarded display as being of no greater

legal significance than taking a book from the library shelf and reading it; others thought that projection of a stored protected work was legally equivalent to display or performance of the work.

Not surprisingly, the committee reached one firm conclusion—that at the present stage it was not possible for it to formulate preliminary detailed recommendations intended for national legislators. In order to provide a basis for further work, the committee entrusted the secretariats of UNESCO and the World Intellectual Property Organization (WIPO) to prepare a draft text in consultation with the committee officers. This working document will be the basis for a second Committee of Governmental Experts which will meet from June 7 to 11, 1982.

Cable television and its liability for the retransmission of copyrighted broadcast programming is hardly a new subject, yet the fact that Americans are well acquainted with this thorny area of law should not obscure the fact that cable is a nascent technology in most of the world, including much of Europe. Committees and working groups of the Berne and Universal Copyright Conventions have been debating the cable-copyright controversy for approximately eight years. This work, which appeared to end in 1977 with the identification of an 'inventory of problems and possible approaches to their solution, was renewed in 1980.

The first Working Group of Independent Experts on the Impact of Cable Television in the Sphere of Copyright met in March 1980. That group adopted certain guiding principles on the basis of which the WIPO and UNESCO secretariats were to prepare draft provisions and detailed commentaries.

A second session of the working group was held at Geneva in May 1981 and, following extensive debate, the secretariats were asked to prepare a new working paper dealing with author's and neighboring rights in the context of cable retransmissions and also in the context of cable originations.

International Copyright and Developing Countries

In 1971 the Berne and Universal Conventions were simultaneously revised to introduce preferential arrangements for the licensing of reproduction and translation rights by developing countries party to those conventions. These arrangements are extremely complex forms of compulsory licenses, which generally come into play only where voluntary licenses have proven impossible to obtain, and, further, uses for which licenses may be compulsorily mandated are generally limited to educational or similar scholarly uses.

Because they are compulsory in nature, copyright proprietors and authors, principally in developed free-market states, viewed the introduction of these licensing systems with concern. At the same time, the procedural detail of the systems, combined with a lack of experience in licensing arrangements, produced dissatisfaction with the 1971 revisions in some developing states.

Over the years, UNESCO and WIPO have collaborated in a number of activities intended to bridge this gap between developed and developing states. In 1981 two important steps were taken in this regard.

On January 1, 1981, the Joint International UNESCO-WIPO Service for Access by Developing Countries to Works Protected by Copyright was established. This joint service pools the resources and permits the coordination of activities of the two international agencies concerned with copyright, in support of the copyright-related needs of the Third World. Thus, many of the activities of WIPO's Permanent Committee for Development Cooperation Related to Copyright and Neighboring Rights and UNESCO's International Copyright Information Centre will be harmonized.

In order to advise the new joint service on the preparation and implementation of its activities, a Joint Consultation Committee has been established, consisting of representatives serving in their personal capacities. The committee held its first session from September 2 to 4, 1981, in Paris.

The committee examined the joint service's proposed plan of action for 1981–82 and made the following recommendations: (1) that the Education Section and the Copyright Division of UNESCO cooperate in assisting competent authorities in developing countries to identify, by subject, specific materials which can be licensed for educational uses; (2) that the secretariats pre-

pare a brochure on the different steps to be taken to secure use of a protected foreign work as well as devise model contracts; (3) that information be disseminated concerning prevailing fees for the use of different kinds of works; and (4) that a study be made of means by which disputes between copyright proprietors and users in developing states may be settled through arbitration or mediation.

The second important development in the area of facilitating access to protected works by developing states is more controversial. In November 1980 a Working Group on Overall Problems Posed for Developing Countries by Access to Works Protected under Copyright met to draft guidelines for the implementation of the reproduction and translation licensing systems in the two principal copyright conventions.

This task was inordinately complex and the resulting draft may satisfy neither developing nor developed states. Ambiguities in the basic convention texts and differences in approaching the role of voluntary licensing within the compulsory system have made the draft guidelines less than clear and, perhaps, less useful than they might be.

From the point of view of the United States and other free-market states, the fundamental problem with the guidelines lies in their tendency to minimize requirements of good-faith voluntary negotiations as a prerequisite to compulsory licensing. This tendency seems incompatible with the spirit and letter of the licensing systems, which are a blend of free-market and compulsory nonexclusive licensing principles. The aim of the revisions made in 1971 was to limit the complete freedom of copyright proprietors to withhold licenses from developing states, not to provide a complete statutory substitute for voluntary licensing. The draft guidelines will doubtless be the subject of spirited debate at the upcoming sessions of the Berne Executive and Intergovernmental Committees in late November 1981.

Another item, which will be considered at the November 1981 session of the Intergovernmental Copyright Committee (IGCC), concerns the rules of procedure governing elections to the committee. In November 1980 a subcommittee of the IGCC had met to consider possible amendments to those election rules.

At issue in the election rules debate is the extent to which seats on the eighteen-member Intergovernmental Committee can rotate among the full membership of the Universal Copyright Convention (UCC) and still provide the continuity which assures technical expertise. In 1952 the UCC had relatively few developing states as members. By 1981 membership in the UCC swelled to seventy-four countries, slightly over one-half of which may be considered as developing.

In 1971 the UCC was revised to increase the size of the Intergovernmental Committee from twelve to eighteen members, with the expectation that the increased size would permit enhanced Third World membership on the committee. By 1979, however, it became apparent that balancing rotation with continuity—a balance mandated by the UCC itself—was impeded by several technical rules which, in effect, penalized states which were not reelected to membership on the committee. At the 1979 session of the committee, rules changes were made which removed an eight-year disqualification to election for states failing to be reelected to the committee and prescribed that at least two states elected to the committee at each election be new members of the committee.

These are small but significant changes. Under the new rules, the "renewal" of the Intergovernmental Committee (which provides for one-third of its members' terms to expire every two years) should be more flexible and responsive to the true universality of the Universal Convention.

UNESCO and WIPO have not confined their activities in support of developing countries to these sorts of issues. Since 1973, developing countries have led the way in attempting to devise international recommendations to states for the protection of expressions of national folklore.

In February 1981, a Working Group of Experts met in Paris to consider the Intellectual Property Aspects of Folklore Protection. Specifically, the group examined draft model provisions intended for national legislation in the area of folklore protection.

The question of intellectual property and whether or how it can serve the protection of folklore is a fascinating problem. The task is to provide reasonable protection to material expressions which embody elements of indigenous national folklore without having such a system

impede the use of folklore itself by the creators of other original copyrightable works, such as films, popular music, and the like.

The aim of legislation to protect expressions of folklore as a species of intellectual property is twofold: to ensure the moral and reasonable economic interests of ethnic communities with whom the distinctive expression of folklore is associated, and to provide a means to ensure authenticity and avoid debasement of folkloric expression.

As admirable as these aims are, the particular challenge for the United States is to see if this can be achieved without either inhibiting creative freedom or justifying national systems of artistic censorship.

Other Multilateral Developments

The increase in motion picture and sound recording piracy, which has concerned every film and record manufacturing enterprise in the world, was the subject of a recent WIPO-sponsored symposium when, in March 1981, the Worldwide Forum on Piracy of Sound and Audiovisual Recordings met in Geneva. This symposium brought together figures from the motion picture industries, government law enforcement agencies, and authors' groups for several days of lectures and debates over the scope of piracy and effective means to combat it at the national and international levels.

Respectfully submitted,

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

International Copyright Relations of the United States as of September 30, 1981

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

Antigua Barbuda
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

Belau
Unclear

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

Belize
Unclear

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
UCC Paris with German Democratic Republic Dec. 10, 1980

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
UCC Paris Sept. 3, 1980
Phonogram June 29, 1974

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

Spain (cont.)
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 1981

Category of material	Published	Unpublished	Total
Nondramatic literary works			
Monographs	94,390	24,708	119,098
Serials	118,523		118,523
Machine-readable works	1,129	959	2,088
Total	214,042	25,667	239,709
Works of the performing arts			
Musical works	26,042	98,976	125,018
Dramatic works, including any accompanying music	1,132	7,693	8,825
Choreography and pantomimes	17	81	98
Motion pictures and filmstrips	7,016	825	7,841
Total	34,207	107,575	141,782
Works of the visual arts			
Two-dimensional works of fine and graphic art, including prints and art reproductions	9,988	5,193	15,181
Sculptural works	1,572	955	2,527
Technical drawings and models	307	362	669
Photographs	455	842	1,297
Cartographic works	902	6	908
Commercial prints and labels	6,504	198	6,702
Works of applied art	10,873	1,637	12,510
Total	30,601	9,193	39,794
Sound recordings	7,957	5,541	13,498
Multimedia works	2,056	96	2,152
Grand total	288,863	148,072	436,935
Renewals			34,243
Total, all registrations			471,178

Disposition of Copyright Deposits, Fiscal Year 1981

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	94,738	121,967	9,627	226,332
Serials		237,046	170,079	407,125
Total	94,738	[1] 359,013	[2] 179,706	633,457
Works of the performing arts				
Musical works; dramatic works, including any accompanying music; choreography and pantomimes	133,441	26,542	125	160,108
Motion pictures and filmstrips	2,496	[3] 4,520	81	7,097
Total	135,937	31,062	206	167,205
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	61,458	7,127	86	68,671
Cartographic works	8	1,812	387	2,207
Total	61,466	8,939	473	70,878
Sound recordings	13,525	7,925	395	21,845
Total, all deposits [3]	305,666	406,939	180,780	893,385

[1] Of this total, 71,553 copies were transferred to the Exchange and Gift Division for use in its programs.
[2] Of this total, 3,802 copies were transferred to the Exchange and Gift Division for use in its programs.
[3] Includes 3,474 motion pictures returned to remitter under the Motion Picture Agreement.

Summary of Copyright Business, Fiscal Year 1981

	Registration	Fees earned
Published works at $10.00	288,863	$2,888,630.00
Unpublished works at $10.00	148,072	1,480,720.00
Renewals at $6.00	34,207	205,242.00
Renewal supplementary registrations at $10.00	36	360.00
Total registrations for fee	471,178	4,574,952.00
Fees for recording documents		147,379.50
Fees for certified documents		27,182.60
Fees for searches made		80,216.00
Fees for import statements		831.00
Fees for deposit receipts		1,540.00
Fees for CATV documents		3,068.00
Fees for full-term storage of deposits		
Fees for notice of use		
Total fees exclusive of registrations		260,217.10
Total fees earned		$4,835,169.10

Statement of Gross Cash Receipts and Number of Registrations for the Fiscal Years 1977–1981

Fiscal year	Gross receipts	Number of registrations	Percentage of increase or decrease in registrations
1977	$2,946,492.04	452,702	+10.2
1978	[4] 3,957,773.44	[4] 331,942	[4] −26.7
1979	4,934,173.29	429,004	+29.2
1980	4,961,982.34	464,745	+ 8.3
1981	5,248,907.76	471,178	+ 1.4

[4] Reflects changes in reporting procedure.

Financial Statement of Royalty Fees for Compulsory Licenses for Secondary Transmissions by Cable Systems for Calendar Year 1980

Royalty fees deposited	$19,579,598.09	
Interest income paid on investments	528,412.50	
Gain on matured securities	1,070,962.18	
		$21,178,972.77
Less: Operating costs	323,950.00	
Refunds issued	34,404.85	
Investments purchased at cost	20,780,056.72	
		21,138,411.57
Balance as of September 30, 1981		40,561.20
Face amount of securities purchased		24,295,000.00
Cable royalty fees for calendar year 1980 available for distribution by the Copyright Royalty Tribunal		$24,335,561.20

Financial Statement of Royalty Fees for Compulsory Licenses for Coin-Operated Players (Jukeboxes) for Calendar Year 1981

Royalty fees deposited	$1,037,392.90	
Interest income paid on investments	82,481.26	
		$1,119,874.16
Less: Operating costs	152,026.00	
Refunds issued	1,555.90	
Investments purchased at cost	946,981.57	
		1,100,563.47
Balance as of September 30, 1981		19,310.69
Face amount of securities purchased		962,000.00
Estimated interest income due September 30, 1982		97,717.50
Jukebox royalty fees for calendar year 1981 available for distribution by the Copyright Royalty Tribunal		$1,079,028.19

* United States Government Printing Office 1982--387-838/8589