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ANNUAL REPORT OF THE  
REGISTER OF COPYRIGHTS

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quality maintained. As an example, each division concerned with the recordation of documents adjusted its operations and articulated them with the others in order to expedite the search for recently received documents; similarly, the adjustments needed to convert from a registration fee to a filing fee were the product of cooperation among all concerned.

In the Examining Division significant work was also undertaken to reduce the volume of correspondence, to increase the number of guide letters and form letters for use instead of specially composed letters, and to improve the handling of computer programs, of which some seven thousand were received this year for registration. In the Information and Reference Division studies were conducted whose objective was to find a suitable way to cope with the ever-rising volume of incoming telephone requests for copyright information.

## **AUTOMATION**

A number of significant developments have occurred in the Copyright Office's continuing automation program. The automated copyright catalog records, first made available at the end of the last fiscal year through four video display terminals located in the card catalog area, continued to be enhanced. Two files are currently accessible, monographs and documents (known by the acronyms COHM and COHD, respectively) representing all such items cataloged since the new copyright law went into effect on January 1, 1978. Further enhancements to this system expected in the coming months are weekly file updates (presently updates are effected bimonthly), addition of the serial file (COHS), and extension of access to these files to all reading rooms in the Library of Congress.

As explained elsewhere in this report, the copyright registration fee was converted to a nonrefundable filing fee in November 1982. In order to implement this change, the first stage of COINS III, the Copyright Office In-Process

System, was made operational. The result is that approximately 40 percent of all applications for registration now come under automated control from their point of receipt. These are the claims that are paid for by debiting deposit accounts which have been established for large-volume remitters. Such claims, when combined with the 15 percent of the "cash" claims that are tracked by the Automated Correspondence Management System (CMS), amounted to 55 percent or more of all claims being tracked through automation while they are in the registration process. An important milestone was reached in the goal of implementing fully automated tracking of all claims with the completion in June 1983 of the specifications for handling in-process records on COINS III. The specifications were the result of a collaborative effort among staff in the Copyright Office who will be the eventual users of COINS and the systems analysts in the Automated Systems Office who are responsible for systems design and implementation.

## **COMPENDIUM OF COPYRIGHT OFFICE PRACTICES**

Work moved toward conclusion on the new *Compendium of Copyright Office Practices*, which reflects the examining and related practices of the office under the new copyright law. The public will be invited to comment on the new compendium before its issuance. It will be published in loose-leaf form to facilitate updating and will be sold by the Government Printing Office as a priced publication. It is believed that the project will be finished in the coming fiscal year.

## **COPYRIGHT OFFICE PUBLICATIONS**

The Copyright Office published during the year volumes 41 and 42 of the series of bulle-

tins entitled *Decisions of the United States Courts Involving Copyright*. These volumes contain the texts of the 1977 and 1978 cases, respectively; the two volumes together contain more than two thousand pages and two hundred cases. The series as a whole covers copyright cases from 1790 onward, contains extensive indexes, and is sold by the Government Printing Office. Volumes containing later cases are in preparation. In addition, a number of new circulars were added to the battery of printed material which provides the public with general information on copyright and specific instructions on how to make registration.

#### SECTION 108(i) REPORT

The Copyright Act (Title 17 of the United States Code) which took full effect January 1, 1978, provides in section 108(i) that five years from that date, and at five-year intervals thereafter, the Register of Copyrights, "after consulting with representatives of authors, book and periodical publishers, and other owners of copyrighted material, and with representatives of library users and librarians," shall submit to the Congress a report setting forth the extent to which the provisions of the copyright law authorizing certain kinds of reproduction and distribution of copyrighted works by qualifying librarians have achieved "the intended statutory balancing of the rights of creators, and the needs of users."

Pursuant to this mandate, the Register submitted to Congress in January 1983 a report which deals with the copying practices of libraries and archives, and their patrons, and which focuses upon the balance intended by the act. Steps taken by the Copyright Office leading to the report included a series of nationwide hearings; a survey by King Research, Inc., which looked at more than five hundred libraries, and as many publishers, to see how

they were faring under the new act, and ad-duced empirical data for the report; and consultation with an advisory committee made up of representatives of authors, publishers, librarians, and users of copyrighted works.

The report concludes that the statutory provisions have established a workable framework for obtaining a balance between creators' rights and users' needs, but that, in certain instances, a balance has not been achieved in practice, either because the intent of Congress has not been carried out fully or because that intent is not clear to those whose activities come within the scope of the law. According to the report, the existence of the intended statutory balance can be supported by evidence showing that between 1976 and 1980 library acquisition expenditures increased faster than the rate of inflation, that during the same period the ratio of serial "births" to "deaths" was 3.4 to 1, that some types of photocopying in certain classes of libraries have increased very slowly or even decreased, and that serial publishers' revenues increased.

The Copyright Office, however, also pointed to other information showing that there might be an imbalance in that "substantial quantities of the photocopies prepared by and for library patrons are made for job-related reasons, rather than for the type of private scholarship, study, or research most favored by the law." The report noted empirical evidence that in approximately one-quarter of the library photocopying transactions, two or more copies are made, even though section 108 of the Copyright Act only permits the making of a single copy.

According to the report, there appears to be confusion among many librarians about how the copyright law works and why its enforcement is frequently their responsibility. Furthermore, publishers contend that the present system is seriously imbalanced, and some of them have asserted their views in print and by bringing lawsuits.

The Copyright Office made recommenda-

tions to rectify what are perceived to be shortcomings in present practices and in the present law. The report states that these recommendations, both statutory and nonstatutory, should aid in achieving understandings which would permit legitimate photocopying while protecting copyright interests. These include:

### **Nonstatutory Recommendations**

*Collective licensing agreements encouraged.* All parties affected by library reproduction of copyrighted works are encouraged to participate in existing collective licensing arrangements, and to develop new collective arrangements in order to facilitate compensated copying of copyrighted works.

*Voluntary guidelines encouraged.* Representatives of authors, publishers, librarians, and users should engage in serious discussions with a view to the clarification of terms and the development of guidelines, both with respect to present photocopying practices and the impact of new technological developments on library use of copyrighted works. The Copyright Office recommends that the respective congressional copyright committees or subcommittees again urge the parties to engage in serious negotiations and report back to them by a certain date.

*Study of surcharge on equipment.* In the next five-year review, a copyright compensation scheme based upon a surcharge on photocopying equipment used at certain locations and in certain types of institutions or organizations should be studied, taking into account experience with such systems in other countries.

*Study of compensation systems based on sampling techniques.* In the next five-year

review, various systems for copyright compensation based on a percentage of the photocopying impressions made on machines located at certain places in certain types of institutions or organizations, as determined by sampling techniques, should be studied.

*Further study of new technology issues.* In the next five-year review, issues relating to the impact of new technological developments on library use of copyrighted works should be studied.

*Archival preservation.* Representatives of authors, publishers, users, and librarians should meet to review fully new preservation techniques and their copyright implications and should seek to develop a common position for legislative action by Congress, taking into account the respective interests of libraries and their patrons and of authors and publishers.

*Adequate funding for library services.* Proper recognition of the cost of creating and disseminating protected works in our society requires concomitant understanding, at all levels of government, of the need for adequate funding of publicly owned libraries in order to enable them to pay their share of creation-dissemination costs.

### **Recommendations to Amend the Copyright Act**

*Reproduction of out-of-print musical works.* The Copyright Office recommends enactment of the proposal submitted by the Music Library Association and the Music Publishers' Association, either by amendment of section 108(e) or by addition of a new paragraph (j) to section 108, with consequential amendment of paragraph (h). The amendment would permit library reproduction of an entire musical work (or substantial parts thereof) for private study,

scholarship, or research following an unsuccessful, diligent search for the name and address of the copyright proprietor of the musical work.

*Umbrella statute.* The Copyright Office recommends favorable action by Congress on legislation that would embody the principle of the so-called "umbrella statute," a proposal developed by an ad hoc task force of librarians and publishers and submitted by the Association of American Publishers. The proposal would add a new section 511 to the Copyright Act, limiting copyright owners to a single remedy in the form of a reasonable copying fee, for copyright infringement of their scientific, technical, medical, or business periodicals or proceedings, if certain conditions are met by the user of the work, including membership in a collective licensing arrangement, unless the work was entered in a qualified licensing system or qualified licensing program. The purpose of the umbrella statute is to encourage publisher and user participation in collective licensing arrangements. The Copyright Office further recommends that Congress require recordation with the office of a document setting forth the basic terms and conditions of any qualified licensing program or qualified licensing system.

*Clarification of the "108(a)(3) notice."* The Copyright Office recommends enactment of a clarifying amendment to section 108(a)(3) as follows:

"(3) the reproduction or distribution of the work includes the notice of copyright as provided in sections 401 and 402 of this title, if such notice appears on the copy or phonorecord in a position authorized by sections 401(c) and 402(c), respectively, of this title."

*Clarification that unpublished works are excluded from paragraphs (d) and (e) of sec-*

*tion 108.* The Copyright Office recommends an amendment to paragraphs (d) and (e) of section 108 to make clear that unpublished works are not within the copying privileges granted therein.

Copies of the report may be purchased from the National Technical Information Service, U.S. Department of Commerce.

## THE MANUFACTURING CLAUSE

This provision of the copyright law, a part of the U.S. statute in various forms since 1891, requires at present that certain nondramatic literary works by American citizens be manufactured in the United States or Canada in order to enjoy full copyright protection. Pursuant to the copyright law that took effect in 1978, the provision was to expire on July 1, 1982, but on June 30, 1982, Congress enacted a bill to retain it for another four years. President Ronald Reagan vetoed the bill but on July 13 Congress overrode the veto, and this in turn set the stage for another episode in the long and acrimonious debate involving the manufacturing clause.

The European Economic Community (EEC) has now formally complained that the extension of the manufacturing clause in July 1982 has resulted in violations of the General Agreement on Tariffs and Trade (GATT) and that the European printing industry was injured because it could not compete in the U.S. market for material covered by the law. The EEC estimates the amount of the injury at \$250,000,000. Anthony P. Harrison, the Assistant Register of Copyrights, helped to present the U.S. position to a formal GATT panel formed to review this dispute.

At the first panel meeting in September 1983, the EEC contended that, because of the hiatus in time between the date the manufacturing clause was due to expire and the enactment date of its further extension, the

extension really amounted to new legislation which would violate the spirit of several GATT provisions. New legislation would not be protected by the GATT Protocol of Provisional Application (PPA), which allows laws creating nontariff trade barriers to remain in force if they were in effect on October 30, 1947. The EEC also argued that the inclusion of Canada in the manufacturing clause was a discriminatory act violating the "most favored nation" principle of the GATT provisions, intended to afford equality of treatment to all parties to the GATT.

The United States responded that the manufacturing clause is "existing legislation" within the meaning of the PPA and the U.S. legislative procedure which provides for a system of presidential vetoes and veto override by Congress. The United States maintained that the action complained of in this instance was a mere extension of existing legislation and not the enactment of new legislation. The position of the United States is that the inclusion of Canada in the manufacturing clause represents a liberalization of the effects of the clause in that it narrows the areas affected by the manufacturing requirements by removing one country and that such a liberalization is allowed within the spirit of the GATT.

A second panel hearing will be held in November 1983 to review these questions and others, along with economic data relevant to the issues.

#### **COPYRIGHT OFFICE REGULATIONS POLICY ANNOUNCEMENTS AND NOTICES OF INQUIRY**

##### **Copyright Office Regulations**

Section 704(e) of the Copyright Act directs the Register of Copyrights to issue regulations prescribing the conditions under which re-

quests for full-term retention of deposit copies are to be made and granted, including the fees for this service. An interim regulation implementing the provision for the full-term retention was published on July 19, 1983. The effect of the regulation is to provide a mechanism for requesting retention of copyright deposits, to establish the conditions under which such requests are granted or denied, and to fix the fee to be charged if the request is granted.

Section 407(e) of the act authorizes the Library of Congress to obtain copies of fixed, unpublished transmission programs, either by making off-the-air copies or by demanding copies from the owner of the right of transmission in the United States in the form of a permanent transfer, a loan for copying, or a sale. Section 408(b) permits the off-the-air copies to be used for copyright registration purposes. On August 17, 1983, the Copyright Office issued a final regulation implementing section 407(e) by providing a mechanism for the Library to acquire copies of unpublished transmission programs in accordance with the provisions of that section. The final regulation takes into consideration comments and testimony received in response to the notice of proposed rule-making published on February 4, 1982. The final regulation embodies a major change in the proposed regulation, which would have permitted the Library to presume that any television program transmitted to the public in the United States by a network or noncommercial educational broadcast station has been fixed but not published. The final regulation eliminates commercial network programs from the presumption of nonpublication.

##### **Policy Announcements**

The Copyright Office announced early in the fiscal year that the statutory amendment providing for a nonrefundable filing fee for copy-

right registrations was being implemented. Beginning on November 24, 1982, fees submitted for all applications, whether original, renewal, or supplementary, were retained whether or not copyright registration was ultimately made.

On December 9, 1982, the Copyright Office announced a change in its procedure for preparing additional certificates of registration for works registered before January 1, 1978. Heretofore, the office had prepared additional certificates by typing the facts of registration from the official records onto printed certificate forms. Under the announced new procedure they are photoreproduced from the original application, resulting in both a saving of time and elimination of the possibility of errors in transcription.

After careful study of the space available, the projected growth in registrations, and the use made of deposits, the Register of Copyrights announced in March 1983 that he and the Librarian of Congress had reached a policy determination, in accordance with their statutory authority, that it is no longer practicable to retain published deposits more than five years from the date of deposit (excluding works of the visual arts, which will be kept for ten or more years, if possible, because they are more often the subject of litigation than deposits in other classes).

In May 1983 the Copyright Office announced that documents sent to its Renewals and Documents Section for recordation would be filmed upon receipt rather than after examination and recordation, as had been the practice. The new procedure was adopted in order to make the documents accessible to the public more quickly than in the past.

### **Notices of Inquiry**

On October 20, 1982, the Copyright Royalty Tribunal (CRT) adopted its final rule adjusting the royalty rates for cable systems, following

the repeal by the Federal Communications Commission (FCC) of its distant signal carriage and syndicated exclusivity restrictions. After the publication of the tribunal's final rule in the rate adjustment proceeding, the Copyright Office received letters from several cable system operators and their representatives requesting interpretative rulings in connection with the application of the new 3.75 percent rate in specific instances. To assist the office in responding to the various letters of inquiry and requests for interpretative rulings, a Notice of Inquiry was published on February 11, 1983, inviting comment on four general issues. In a Statement of Views, published on March 30, 1983, the Copyright Office stated that it had analyzed the comments that were submitted, the Copyright Act and its legislative history, the CRT rate determination, and certain former FCC regulations, and reached the conclusion that only a limited response to the questions posed in the Notice of Inquiry was appropriate since the tribunal's rate adjustment decision has been appealed to the U.S. Court of Appeals for the District of Columbia. The office stated that it does not intend to take any steps to implement the October 20, 1982, rate adjustment pending a final decision by the Court of Appeals.

The Copyright Office published a Notice of Inquiry on May 23, 1983, stating that it is reviewing its deposit regulations with respect to the deposit, under sections 407 and 408 of the Copyright Act, of computer programs and other works which contain material referred to as "trade secrets." Owners of copyright in works containing trade secrets, especially owners of copyright in computer programs, have expressed concern about public availability of materials deposited in the Copyright Office, and have asked that the office consider the possibility of special deposit provisions. The notice was intended to elicit public comment, views, and information to assist the office in evaluating its present practices and in considering possible changes in its regulations.

The response to the notice revealed great interest in the topic, and to ensure that interested persons are given a full opportunity to submit views, on August 17, 1983, the Copyright Office announced an extension of the comment period. The office was continuing to receive comments at the close of the fiscal year.

## LEGISLATIVE DEVELOPMENTS

### Home Recording

Work continued on the difficult issues raised by the growth of off-air home video and audio recording of copyrighted works for private use. The focal point for discussions was the decision of the Ninth Circuit Court of Appeals in *Universal City Studios, Inc. v. Sony Corp. of America*, 659 F.2d 963 (9th Cir. 1981), cert. granted, 457 U.S. 1116 (1982). The case had been held over from the previous term of the Supreme Court and was reargued on October 3, 1983. In January 1983, bills were introduced in both houses, H.R. 175 and S. 175, that would exempt certain video recordings from liability under section 106 of the Copyright Act of 1976, if such recordings were made for private noncommercial use. During the same period, the proposed Home Recording Act of 1983, S. 31 and H.R. 1030, was introduced in both the House and the Senate. In addition to exempting home recording for private use, these bills would establish a compulsory license mechanism to compensate copyright owners. Royalties would be paid by manufacturers and importers who distribute video and audio recording devices and media, at rates set by voluntary negotiation or arbitration; the Copyright Royalty Tribunal would then distribute the money to copyright owners. The Register of Copyrights generally supported S. 31 in his testimony on October 25, 1983, before the

Subcommittee on Patents, Copyrights, and Trademarks of the Senate Committee on the Judiciary. At the end of the fiscal year the Copyright Office had not testified on the House bills.

### Rental, Lease, or Lending of Motion Pictures and Other Audiovisual Works As Well As Sound Recordings

The rental, lease, or lending for purposes of direct or indirect commercial advantage of motion pictures and other audiovisual works as well as sound recordings was the subject of bills introduced in the Senate, S. 32 and S. 33, and the House of Representatives, H.R. 1027 and H.R. 1029, in the first session of the 98th Congress. The bills would amend section 109(a) of the Copyright Act, known as the "first sale" provision, to require authorization by the copyright owner before the works in question could be rented, leased, or lent on a commercial basis. The Register of Copyrights testified at a hearing on S. 32 and S. 33 that was held on April 29, 1983, before the Senate Subcommittee on Patents, Copyrights, and Trademarks. The proposed audio record rental amendment, S. 32, was reported from the Senate Committee on the Judiciary on June 23, 1983. S. Rep. No. 98-162, 98th Cong., 1st Sess. (1983). S. 32 passed the Senate on June 28, 1983, and was referred to the House Judiciary Committee.

### Cable Television

Various bills were introduced in the 98th Congress to amend the copyright law with respect to the compulsory license for secondary transmissions by cable systems. Bills introduced in the Senate, S. 1270 on May 12, 1983, and in the House, H.R. 3419 on June 27, 1983, would amend the Copyright Act with respect to the royalty rates applicable to the carriage of



what is termed a "national cable broadcast network." The bills also propose certain changes in the Copyright Royalty Tribunal. Another bill, H.R. 2902, introduced in the House on May 4, 1983, would amend the Copyright Act to provide that certain adjustments in royalty rates would not apply to the first three distant independent television signals carried by any cable system. Efforts also continued to improve the compulsory license system established under section 111 of the act. H.R. 1388 was introduced by Rep. Barney Frank and Rep. Harold S. Sawyer on February 10, 1983, that would alter considerably the text of section 111. With certain specific exemptions, secondary transmissions to the public of primary transmissions embodying a performance or display of a copyrighted work would be subject to full liability. In the interest of remedying the imbalance in the protection of copyrighted works retransmitted by foreign cable systems, S. 736 was introduced by Sen. Patrick J. Leahy in March 1983. The bill would provide that a nonresident foreign national not be compensated under the U.S. cable provisions unless such claimant's country compensates United States citizens for retransmission of their works.

#### **Protection of Semiconductor Chips and Masks**

In the last days of the 97th Congress, Sen. Charles McC. Mathias, Jr., and Rep. Don Edwards introduced S. 3117 and H.R. 7207, respectively, that would establish mask works as a new category of copyrightable subject matter. With a few changes, the proposed semiconductor chip legislation was reintroduced in the 98th Congress in both the Senate, S. 1201, and the House, H.R. 1028. The general counsel of the Copyright Office, Dorothy M. Schrader, testified at a hearing on the Senate bill on May 19, 1983.

#### **Copyright Misuse and the Antitrust Laws**

Several bills were introduced in the 98th Con-

gress to promote research and development, encourage innovation, and stimulate trade. Certain of these bills, S. 1841 and H.R. 3878, would also amend the antitrust, patent, and copyright laws. Among other measures, the proposed National Productivity and Innovation Act of 1983 would amend the Copyright Act to modify the application of the doctrine of copyright misuse in the licensing of copyrighted works. The general counsel testified on S. 1841 at a hearing before the Senate Committee on the Judiciary on October 26, 1983.

#### **New Technology and Copyright**

The challenges to the copyright system presented by the rapid advances in technology have led to a reassessment of the copyright law by the House Judiciary Subcommittee on Courts, Civil Liberties, and the Administration of Justice. Under the chairmanship of Rep. Robert W. Kastenmeier, the subcommittee held hearings on July 20 and 21, 1983, to focus on the technological developments that may be anticipated and the impact such changes may have on the copyright system.

#### **Other Legislative Activities**

Bills were introduced in the Senate, S. 1734, and the House, H.R. 4010, to amend section 116 of the Copyright Act with respect to public performances of nondramatic musical works by means of coin-operated phonorecord players. The proposed National Heritage Resource Act of 1983, H.R. 1285 and S. 427, would amend the Internal Revenue Code with respect to charitable contributions of certain literary, musical, or artistic compositions. The Caribbean Basin Economic Recovery Act, S. 544 and H.R. 2769, contained limitations relating to the unauthorized broadcast of works of U.S. copyright owners; this legislation passed the Congress and was signed by the President

on August 5, 1983. H.R. 1521, introduced in the House on February 17, 1983, would establish a type of moral right for authors of pictorial, graphic, or sculptural works. On May 11, 1983, Rep. Carlos J. Moorhead introduced H.R. 2985, which would amend the copyright law to provide for protection of ornamental designs of useful articles. H.R. 1674 and H.R. 2975, introduced in February and May 1983, respectively, would amend section 110 of the act to exempt certain performances or displays of copyrighted works.

### JUDICIAL DEVELOPMENTS

There were a number of significant cases in the last fiscal year on the question of the copyrightability of certain computer programs. In *Apple Computer, Inc. v. Formula International, Inc.*, 562 F.Supp. 775 (C.D. Calif. 1983), the primary copyright issue was whether all computer programs or only limited types of computer programs are copyrightable. The defendant claimed that those programs which are integral to the operation of the machine and do not produce visual communications with the use of the machine are not copyrightable. The court said that any doubt as to whether the Copyright Act protects computer programs of all types, however fixed, is removed by examining the legislative history of the 1980 amendment to the act; that the recommendations of the National Commission on New Technological Uses of Copyrighted Works, which were accepted by Congress and embodied in the Copyright Act by the 1980 amendment, said there should be no distinction made "between programs which are used in the production of further copyrighted works and those which are not"; and that it must follow, therefore, that Congress did not intend to make any distinction between programs which are used in the production of further copyrighted works and those which

embody a system for the operation of a machine. In this case the court found that Apple sought not to protect ideas (i.e., making the machine perform particular functions), but rather to protect their particular expression of those ideas in the form of specific programs.

The copyrightability of an "operating program" was also an issue in *Hubco Data Products Corp. v. Management Assistance Inc.*, 219 USPQ 450 (D. Idaho 1983). Management Assistance Inc. (MAI) sells an operating program for use in machines it manufactures. It markets a number of different versions of its operating program, each of which has different capacities or capabilities. These limitations are programmed into the basic operating program. Its fee for the purchase of the operating program is based on the capability of the particular program purchased. Hubco developed a certain software procedure which it markets and which has the effect of upgrading the capability of MAI's operating program by bypassing or neutralizing the limitation codes put into the program by MAI. The issue in this case was the copyrightability of MAI's operating program and, if copyrightable, whether Hubco copied from MAI's program or independently created the program which serves to upgrade MAI's program. In deciding MAI's motion for a preliminary injunction the court found that as a matter of law MAI's operating program is proper subject matter for copyright protection. On the issue of copying the court found a probability of success on MAI's charge that Hubco copied at least part of its operating program.

In *Apple Computer, Inc. v. Franklin Computer Corp.*, 714 F.2d 1240 (3d Cir. 1983), the district court had refused to issue a preliminary injunction to Apple based upon its doubts that Apple's computer programs were copyrightable. The works involved are in object code form stored on Read Only Memory (ROM) chips or on disks. All of the works were operating programs. The court in its analysis distinguished between operating pro-

grams, which are generally internal to the computer and designed only to facilitate the operation of an application program, and application programs which have a specific task, chosen by the user, such as to maintain records, perform certain calculations, or display graphic images. The court found that without a full trial it could not determine the copyrightability of plaintiff's operating programs. It appeared to the court that the operating programs were an essential part of the machine, i.e., mechanical devices which make the machine work and make it possible for the machine to use application programs, and that, if they were mechanical devices which are engaged in a computer to become an essential part of the mechanical process, they cannot be considered "works of authorship" under the copyright law.

The Court of Appeals reversed the denial of the preliminary injunction and remanded the case to the district court. In its opinion the court stated that all computer programs, whether operating programs or application programs, in object code or in source code, are protectible by copyright. In answer to the district court's doubt that an object code, which is only machine readable, as distinguished from a source code, which is capable of being read by a human being, may not be the proper subject matter of copyright, the Court of Appeals cited its decision in *Williams Electronics, Inc. v. Artic International, Inc.*, 685 F.2d 870 (3d Cir. 1982). In the *Williams* case the court said the answer to the question is in the words of the statute itself, i.e., section 102(a) of the Copyright Act, which extends copyright to works in any tangible medium of expression "from which they can be perceived, reproduced, or otherwise communicated, either directly or with the aid of a machine or device." Further, the court pointed out that the 1980 amendment defines a computer program as "a set of statements or instructions to be used directly or indirectly in a computer in order to bring about a certain

result." On the question of the copyrightability of a computer program embodied in a ROM, the court again cited the opinion in *Williams*, which held that the statutory requirement of "fixation" is satisfied through the embodiment of the expression in the ROM devices.

Franklin's main argument was that an operating system program is a process, a system, or a method of operation and hence is uncopyrightable. The court found that Apple does not seek to copyright the method which instructs the computer to perform its operating functions but only the instructions themselves. The court stated that the method would be protected, if at all, by the patent law. It also found that Franklin's attack on operating system programs as methods or processes seems inconsistent with its concession that application programs are an appropriate subject of copyright. Both types of programs instruct the computer to do something. Therefore, according to the court, it should make no difference for purposes of copyright whether these instructions tell the computer to help prepare an income tax return (the task of an application program) or to translate a high-level language program from source code into its binary language object code form (the task of an operating system program). The court indicated that, since it is only the instructions which are protected, a "process" is no more involved because the instructions in an operating system program may be used to activate the operation of the computer than it would be if instructions were written in ordinary English in a manual which described the necessary steps to activate an intricate, complicated machine. There is thus, in the court's view, no reason to afford any less copyright protection to the instructions in an operating system program than to the instructions in an application program. The court reasoned that perhaps the most important factor leading to a rejection of Franklin's argument is that the statutory definition of a computer program is

a set of instructions to be used in a computer in order to bring about a certain result, and that the statute makes no distinction between application programs and operating programs. The court stated that Franklin had pointed to no decision which adopted the distinction it sought to make.

An additional Franklin argument was that in the case of an operating computer program, the "idea" and the "expression" of the idea merge, thus making copyright unavailable. The rule stated by the court is that, if other methods of expressing the same idea are not foreclosed, as a practical matter there is no merger of the idea with the expression of the idea but that copyright protection will not be given to a form of expression necessarily dictated by the underlying subject matter. Since the district court made no finding as to whether some or all of Apple's operating programs represent the only means of expressing the idea underlying them, that issue was remanded to the district court.

*Midway Mfg. Co. v. Artic International, Inc.*, 704 F.2d 1009 (7th Cir. 1983), cert. denied sub nom. *Artic International, Inc. v. Midway Mfg. Co.*, No. 82-1992, 52 U.S.L.W. 3227, 3238 (U.S. Oct. 3, 1983), presented two interesting issues: whether a computer program embodied in a printed circuit board is copyrightable and whether a speeded-up version of a video game is an infringement of the original copyright. The court answered both questions affirmatively. On the first point, it held that the fact that a computer program is embodied in a printed circuit board which may be patentable does not destroy the program's copyrightability any more than would recording the images on rolls of celluloid film. On the second issue, it was not alleged that defendant copied any of plaintiff's program, but rather that he designed an original printed circuit board which is intended to replace one of the printed circuit boards in the plaintiff's machine, the effect of which is to speed up the action of the images produced on the screen

of the machine. The court held that the speeded-up version of the video game constituted an infringement of the copyrighted program inasmuch as it was an unauthorized derivative adaptation of the plaintiff's original video game.

In *Midway Mfg. Co. v. Strohon*, 564 F. Supp. 741 (N.D. Ill. 1983), the defendants manufactured a modification kit for use in PAC-MAN game machines which had the effect of producing all new graphics for a maze game which is somewhat similar to PAC-MAN but plays at a higher level of difficulty. Midway made two copyright registrations for PAC-MAN, one for the audiovisual display and one for the computer program which embodies the operating instructions to the machine. Since the defendant created new graphics for the modified game, the court found there was no infringement of the audiovisual work. The defendant argued that the audiovisual display and the computer program which directs play are so intertwined as to preclude consideration of the computer program as a separately copyrightable item. The court found that since Midway registered copyright claims in both the audiovisual display and the underlying computer program, the prima facie validity of both copyrights is established. The court stated that the computer program is a distinct creation as shown by the fact that it is possible to create a completely different computer program and still infringe the copyright in the audiovisual material, and that the skill, ingenuity, and effort required to design the computer program are "altogether different from the process of conceiving and designing the distinctive PAC-MAN characters." The court held that the computer program connected with a video game is protectible by copyright separately from the copyright in the audiovisual work. In comparing the programs it was shown that 97 percent of the sequencing instructions in Strohon's program were similar to Midway's. The court concluded that since the program could have been written in many

different ways without substantial alteration of the way the game plays, the fact that defendant's program is nearly identical to plaintiff's copyrighted program indicates copying.

The long-awaited Supreme Court decision in *Universal City Studios, Inc. v. Sony Corp. of America*, 659 F.2d 963 (9th Cir. 1981), cert. granted, 457 U.S. 1116 (1982), was further delayed when the Supreme Court held the case over and scheduled it for rehearing on October 3, 1983, the first day of the new term. In this case the owners of copyrighted motion pictures and other audiovisual material brought an infringement action, based on the off-air home videotaping for private use of television programs embodying their works. The action was brought against the manufacturers, distributors, and retail vendors of the videocassette recorders used to tape the works, and against an individual who recorded off-air in his home. The district court held for the defendants. In reversing that decision, the Court of Appeals concentrated on three main issues: Firstly, did the Congress intend to create a blanket exemption for home video recording from the general rights granted copyright owners in the Copyright Act? Secondly, if home video recording is not exempt from protection, does the doctrine of fair use apply? Lastly, if home video recording is neither exempt nor a fair use, are the corporate defendants who manufacture and sell home video recorders liable for contributory copyright infringement? The Court of Appeals held that Congress did not intend to create a blanket exemption for home video recording and that such use was not a fair use. In addition, the corporate defendants were held liable for contributory infringement on the ground that videotape recorders are manufactured, advertised, and sold for the primary purpose of reproducing television programming, virtually all of which is copyrighted.

*Nova Stylings, Inc. v. Ladd*, 695 F.2d 1179 (9th Cir. 1983), involved the question of the remedy available to copyright applicants when

registration is refused. The plaintiff's action in the nature of mandamus involved the Register's refusal to register claims to copyright in ten jewelry designs. The Register moved for dismissal of the action for lack of subject matter jurisdiction, arguing that section 411(a) of the copyright statute provides the plaintiff in an infringement action an adequate remedy at law for review of the refusal of the Copyright Office to register its claims to copyright. The district court granted the government's request to dismiss for lack of subject matter jurisdiction. The Court of Appeals upheld the lower court's decision giving the following reasons: firstly, that mandamus is an extraordinary remedy and that it is appropriate only when the plaintiff's claim is clear and certain and the duty of the office is ministerial and so plainly described as to be free from doubt; and secondly, that an adequate alternative statutory mode of remedy is available. The court held specifically that because of the remedy provided in section 411(a) of the copyright law an action in the nature of mandamus is not available to compel registration, at least where infringement has allegedly occurred. On the question of whether mandamus is available to review the refusal to register before an infringement has occurred, the court held that another mode of redress is provided in section 701(d), which expressly makes all actions taken by the Register reviewable under the provisions of the Administrative Procedure Act.

*Nova Stylings v. Midas Creations, Inc. and David Ladd*, Civ. No. 80-3820 (C.D. Cal. 1980), involves two jewelry designs that were allegedly infringed. The Register was made a party in order to compel registration if the plaintiff should prevail. On November 19, 1981, the court orally stated that it would grant the Copyright Office's motion for summary judgment. As of the end of this fiscal year, it has not issued a written opinion.

In *Norris Industries, Inc. v. International Telephone and Telegraph Corp.*, 696 F.2d 918 (11th Cir. 1983), cert. denied, 52 U.S.L.W. 3238

(U.S. Oct. 3, 1983) [No. 82-1880], the Copyright Office had refused registration of a claim to copyright in plaintiff's automobile wheel cover design on the grounds that it was a useful article which did not contain separable sculptural features which could be considered a copyrightable pictorial, graphic, or sculptural work. The Copyright Office entered the case to clarify its position on the registrability of plaintiff's wheel cover design. After oral argument, the district court granted the Copyright Office's motion for summary judgment. The district court declared the plaintiff's copyrights invalid as a matter of law. In affirming the holding, the Court of Appeals found that the district court properly deferred to the expertise of the Register of Copyrights. The court found no error in the district court's reliance on the Register's opinion that Norris's wheel covers are useful articles as that term is used in the Copyright Act, and that they contain no separable pictorial, graphic, or sculptural features that would qualify for copyright protection.

In *National Conference of Bar Examiners v. Multistate Legal Studies, Inc.*, 692 F.2d 478 (7th Cir. 1982), cert. denied sub. nom. *Multistate Legal Studies, Inc. v. Ladd*, 52 U.S.L.W. 3238 (U.S. Oct. 3, 1983) [No. 82-1885], the defendant had questioned the validity of plaintiff's registration for its secure tests, alleging that the Copyright Office regulation on the deposit for secure tests, 37 C.F.R. 202.20, was inconsistent with the statute. The district court dismissed the defendant's counterclaim and the defendant appealed. The Court of Appeals found from its reading of the legislative history of the Copyright Act that the act was intended to invest broad authority in the Register of Copyrights to fashion a workable system of registration and deposit of copyrighted works, and that it was intended to provide for "administrative flexibility." Consequently, the Court of Appeals agreed with the district court's determination that authority for the secure test regulation can be found

in the statute.

In *The Authors League of America, Inc. v. Ladd*, No. 82 Civ. 5731 (S.D.N.Y., Aug. 30, 1982), the plaintiffs questioned the constitutionality, under the First and Fifth Amendments to the U.S. Constitution, of the "manufacturing clause" of the copyright law. This action was described in last year's annual report. As the fiscal year ended, the case was still pending, but there had been no further action by the court.

In *Encyclopaedia Britannica Educational Corp. v. Crooks*, 542 F. Supp. 1156 (W.D.N.Y. 1982), the Board of Educational Services of Erie County, New York (BOCES), had videotaped the plaintiff's copyrighted works from the television airwaves, maintained a library of the videotaped works, and made copies of the tapes for classroom use. In its decision, the court, after finding that the acts of BOCES were harmful to plaintiff and that the defense of nonprofit use was not well-founded, issued a permanent injunction prohibiting future copying. Thereafter, the defendants filed a motion to amend the injunction to allow temporary videotape copying and use of plaintiff's work on the theory that some limited or temporary use of plaintiff's televised works might be considered a fair use, but in 558 F. Supp. 1247 (W.D.N.Y. 1983), the court refused to amend the permanent injunction to allow temporary use of plaintiff's work, pointing out that all of plaintiff's works are available for rental or lease for short- or long-term periods; that there are many kinds of licensing agreements permitting educational institutions to duplicate plaintiff's works and that these licensing agreements have been previously described in detail; and that the cumulative effect of temporary videotaping would tend to diminish or prejudice the potential short-term lease or rental market for these works.

Four cases of interest were reported that considered the issue of the omission of the copyright notice from published copies. In

*Gemveto Jewelry Co. v. Jeff Cooper, Inc.*, 568 F. Supp. 319 (S.D.N.Y. 1983), three of plaintiff's jewelry designs were refused registration by the Copyright Office for lack of sculptural authorship. After the rejection, plaintiff's attorney asked to withdraw the applications, stating that they were submitted in error since the works were first published without copyright notice. Eight months later the same three works were again submitted for registration with no reference to the earlier refusal to register, and they were again refused registration for lack of sculptural authorship. When action was brought against an alleged infringer, the court said that the plaintiff's burden to prove copyrightability was "heavy" since the determination of the Copyright Office to refuse registration is entitled to "considerable" weight especially where the office rejected the claims on two separate occasions for the same reason, that is, "lack of sculptural authorship necessary to sustain a claim." The court went on to say that the decision to register an article rests within the sound discretion of the Register of Copyrights and that the scope of judicial review is limited to whether the decision was "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law."

However, the court felt that it did not need to decide the question of the copyrightability of plaintiff's jewelry designs, since there was a failure to comply with the copyright notice provisions. The court said that, although the plaintiff was aware of the absence of copyright notice on the copies at least at the time it attempted to withdraw the applications and perhaps earlier, it was at least several months after the attempt was made to withdraw the applications before the plaintiff added notices in an attempt to correct the original omission of notice. Under these circumstances the court held that the plaintiff did not make a "reasonable effort" as required under section 405(a)(2) of the Copyright Act to add a notice to all copies distributed to the public in the United

States after the omission of notice was discovered.

Plaintiff's failure to plead that he attempted to add notices after he had become aware that they were missing from some 300-500 of 1,335 published copies resulted in his failure to prevail in *King v. Burnett*, Copr. L. Rptr (CCH) ¶25,489, (D.D.C., Sept. 29, 1982). The court said that the record is devoid of any indication that the plaintiff made a reasonable effort to add notices.

In *Beacon Looms, Inc. v. Lichtenberg & Co., Inc.*, 552 F. Supp. 1305 (S.D.N.Y. 1982), plaintiff deliberately omitted the copyright notice from published copies. After infringement, plaintiff completed registration of the claim to copyright and sent labels bearing the copyright notice to distributors to be affixed to the copies not yet distributed to the public. The court held that the clear language of the statute indicates that the saving clause in section 405(a)(2) was not intended to apply to deliberate omission of notice. The court stated: "While there can be no rule against resort to legislative history to aid construction of meaning of words, however clear the words may appear on superficial examination, it is equally clear that plain reading of an unambiguous statute cannot be eschewed in favor of a contrary reading, suggested only by legislative history and not by the text itself."

In *Shapiro & Son Bedspread Corp. v. Royal Mills Associates*, 568 F. Supp. 972 (S.D.N.Y. 1983), plaintiff first distributed copies of its bedspread without a permanently attached notice of copyright. The copies were distributed in a sealed plastic package which also contained an insert reading "Design Copyright." The claim to copyright was registered in the Copyright Office and permanent notices added after large numbers of copies had already been sold to the public. The court said that a certificate of registration is not an irrebuttable presumption of copyright validity and is not prima facie evidence that the notice requirement has been met. Plaintiff made no

effort to ascertain the number of copies already in the hands of distributors with improper notices and did not make any effort to add correct notices to those copies before they were distributed to the consumers. However, plaintiff argued that the defective notices constituted a "reasonable effort" to place notices on all copies and that the insert was an actual notice of a claim to copyright. The court held that plaintiff did not make a "reasonable effort" to add an adequate notice to all copies distributed to the public once it discovered that its original notices were defective. Absent such showing, the court found that omission of notice is not excused by section 405(a) of the copyright law.

The right of a state to claim copyright in its revised statutes was the issue in *State of Georgia v. The Harrison Company*, 548 F. Supp. 110 (N.D. Ga. 1982). The Michie Company was given a contract by the State of Georgia to codify its statutes. Michie did so under guidelines supplied by a state commission. The codification involved more than mere cutting and pasting of existing statutes. Michie found duplicate statutes, inconsistent statutes, and gaps in various statutes, and drafted recommended changes in the statutes to make them consistent and complete. The changes were enacted by the Georgia legislature. In addition, Michie edited, compiled, numbered, and did other editorial work on the code. In denying the state's claim to copyright in the codification of the statutes, the court held that the public must have free access to state laws unhampered by any claim of copyright.

In *MSR Imports, Inc. v. R.E. Greenspan Co.*, Copr. L. Rptr. (CCH) ¶25,571 (E.D. Pa., April 27, 1983), the defendant copied plaintiff's cast-iron Coke wagon sculpture and asserted that plaintiff was not entitled to claim copyright in it. The defendant contended that the author of the work was a factory in Taiwan whose employees executed the sculpture and that there was no transfer of copyright to MSR. The idea for the Coke wagon sculpture

originated with the president of MSR, who found a public domain sculpture of a horse-drawn beer wagon which he used as a model and engaged a free-lance artist to make drawings of proposed changes in the sculpture. MSR's president sent the sculpture, drawings, and detailed instructions for sculptural alterations of the model to the manufacturer in Taiwan, whose employees created the sculpture that was finally produced in copies and imported into the United States with a copyright notice in the name of MSR. At issue was the question whether MSR could be considered the author of the sculpture by virtue of the employment for hire of its president, and therefore also the owner of the copyright. The court found that MSR's president did more than merely originate the idea for the Coke wagon; he provided explicit and detailed instructions for its manufacture; and these instructions constituted the necessary expression of the idea for the wagon. The court stated that the manufacturer did not have the slightest discretion to change the specifications it was given nor could it provide any creativity to the product and that any modification of the original specifications had to be approved by MSR. The court found that the free-lance artist and the Taiwan manufacturer contributed no originality to the work and that, therefore, MSR was the sole author and copyright owner and no transfer of copyright was needed.

In addition to the sale and rental of videotapes, the defendant in *Columbia Pictures Industries, Inc. v. Redd Horne, Inc.*, 568 F. Supp. 494 (W.D. Pa. 1983), also ran a "showcase" operation. The defendant provided rooms in the back of its store where a customer alone, or with others he had invited, could view a videotape he or she had rented. The issue was whether the customers' viewing of the rental tapes in a room provided by the defendant amounted to a "public performance." The court held that it did, reasoning that the composition of the audience, even



though limited by the room size to four or six persons, was of a public nature and that showcasing the plaintiff's motion pictures results in repeated public performances.

*Financial Information v. Moody's*, Copr. L. Rptr. (CCH) ¶25,534 (S.D.N.Y., May 23, 1983), involves the question of the need for multiple registrations to cover the updating of data bases. The plaintiff publishes daily from ten to twelve cards providing information on bonds called for redemption. The plaintiff also publishes a yearly cumulative volume of information taken from its daily cards. Each of the cards and the cumulative volume contain notices of copyright. The defendant publishes competing information at least some of which is gathered from plaintiff's daily cards. The defendant conceded that the yearly cumulative volume is a copyrightable compilation. The defendant's defense against the charge of copyright infringement of the individual daily cards was based on several grounds: that the daily data are facts and therefore not copyrightable and that such daily data are not compilations and therefore not copyrightable as such. The absence of registration for the daily cards constituted an additional defense. An annual registration was made in the cumulative volume. The court did not decide the question of the copyrightability of the daily cards, but reasoned that to accord copyright protection to the annual compilation and to deny it to each daily component would negate the value of the protection accorded the yearly compilation. On the question of the absence of registration for the daily cards the court reasoned that since the Copyright Act authorizes the Register of Copyrights to adopt regulations permitting a single registration for a group of related works, although regulations were not adopted, the cards were related works covered by the registration for the annual compilations.

In *Harper & Row, Publishers, Inc. v. Nation Enterprises*, 557 F. Supp. 1067 (S.D.N.Y. 1983), the defendant received an unauthorized copy

of former President Gerald Ford's memoirs, *A Time to Heal*, which was used by one of its editors to prepare an article that was published in the magazine. The article consisted largely of a paraphrase of the language of Ford and other public figures together with some verbatim quotations. The material used was taken from scattered parts of the memoirs. The defendant's early unauthorized publication of parts of the memoirs resulted in the loss of a publishing contract between plaintiff and *Time* magazine. The defendant claimed that its publication was a fair use on the grounds that the revelation of facts and the President's thoughts in the memoirs surrounding Richard Nixon's pardon were a "hot" news item which it could report without incurring liability. The district court held that the defendant's editor was incorrect in believing that the revelations in the memoirs were a "hot" news item, since most of them had been published earlier in other sources. The defendant raised the defense that most of the material in the memoirs was uncopyrightable, since it consisted of historical facts, texts of government memoranda, and quoted conversations of persons other than Ford. The court held that it was not the individual facts and memoranda which were copyrightable, but that it was their totality collected together in Ford's reflections that was protected by copyright and that an infringement had occurred.

Later in the year the Court of Appeals reversed the district court in *Harper & Row, Publishers, Inc. v. Nation Enterprises*, Nos. 83-7277 and 83-7327 (2d Cir., Nov. 17, 1983). The court expressed the need to construe the concept of copyrightability in accord with First Amendment freedoms since the memoirs described political events of major significance, involving a former President. Where First Amendment concerns are involved, the court continued, the confines of copyrightable expression must be construed very narrowly. The issue was whether the memoirs contain any expression which is protected by copy-

right and whether that expression was appropriated by the defendant. The court said that an author's expression exists in different modes. One mode is his overall arrangement of facts, i.e., the structure he chooses for the work as a whole. The court noted that the defendant drew only upon scattered parts of the memoirs and not the total entity with its unique and protected mosaic. A second expressive mode is the author's chosen language, which the plaintiff alleges was appropriated by the defendant by virtue of its use of short segments of verbatim quotation and liberal use of paraphrasing. The court rejected the argument that "paraphrasings of disparate facts such as those found in this case constitute an infringement of copyrightable material." It said that if *The Nation* had taken all of the book or all of a chapter and merely changed the language here and there, such a paraphrase would not protect it from infringement. In this case, *The Nation* drew on scattered pieces of information from different chapters and then described that information in its own words. The court continued, saying that paraphrase concerns the very essence of news and of history and in such works courts have carefully confined the concept "expression" to its barest elements—the ordering and choice of the words themselves. The court found that the copyrighted quotations are neither superfluous nor excessive for the article's purpose and that this very limited use of copyrighted words is not sufficient "to supersede the use of the original work." The court concluded that, "Where information concerning important matters of state is accompanied by a minimal borrowing of expression, the economic impact of which is dubious at best, the copyright holder's monopoly must not be permitted to prevail over a journalist's communication."

In *Marcus v. Rowley*, 695 F. 2d 1171 (9th Cir. 1983), the defendant admitted copying eleven pages of plaintiff's twenty-four-page cookbook for incorporation into a "learning activity

package" prepared for classroom use. The defendant claimed a fair use privilege because the material was copied for a nonprofit educational use. The court held that a finding of nonprofit educational purpose does not automatically compel a finding of fair use and that in this case both the plaintiff's and the defendant's works served the same function; namely, to teach cake decorating. In addition the court found that the quantity and quality of the material taken in relation to the work as a whole precluded a finding of fair use. The court found no monetary loss on the part of the plaintiff, but said that the mere absence of measurable pecuniary damages does not require a finding of fair use.

In *National Cable Television Association v. Copyright Royalty Tribunal*, Copr. L. Rptr. (CCH) ¶25,477 (D.C. Cir., Dec. 14, 1982), the Court of Appeals refused to grant a motion for expedited summary reversal of the district court's refusal to stay an increase of cable television royalty rates. The increase had been ordered by the Copyright Royalty Tribunal because, in July 1980, the Federal Communications Commission had revoked its regulations limiting the number of distant signals a cable system could distribute to its subscribers and deleting the rule giving television stations exclusive rights over syndicated programs. The case was argued on its merits late in the fiscal year and no decision had been announced at year's end.

## INTERNATIONAL DEVELOPMENTS

During fiscal 1984 the international copyright community examined a number of questions, arising under the Berne and Universal Copyright Conventions, which have drawn the attention of legislatures in many countries, including our own. In addition to subjects such as cable television, broadcast and book piracy, and protection of computer software,

conferences and meetings were held on specialized problems confronted by particular classes of users of copyrighted works. This latter group of meetings included two of special interest: those of the Permanent Committee for Development Cooperation Related to Copyright and Neighboring Rights of the World Intellectual Property Organization (WIPO) and of a Working Group on Access by the Visually and Auditory Handicapped to Material Reproducing Works Protected by Copyright. WIPO is a specialized agency of the United Nations that deals with a broad range of current intellectual property issues; the core of its responsibilities is a group of treaties dealing with patents, trademarks, and copyrights. The central copyright treaty WIPO is responsible for is the venerable and highly elaborated Berne Convention for the Protection of Literary and Artistic Property.

Many of the principal developing countries are adherents to one or more texts of the Berne Convention. Making copyright responsive to the special needs of developing countries and helping them create responsive, indigenous copyright systems have long been major aspects of WIPO's program and budget. On January 25, 1983, the WIPO Permanent Committee for Development Cooperation Related to Copyright and Neighboring Rights met in New Delhi to review WIPO's programs in support of Third World needs and chart the directions of future work.

Among the subjects discussed were broadening WIPO's internship program for copyright officials from developing states, the activities of the Joint International Copyright Information Service (run by WIPO and Unesco for the benefit of states party to the Berne Convention and the Universal Copyright Convention), and proposals to prepare, jointly with Unesco, model provisions for national laws on the rights and obligations of authors and publishers under publishing contracts.

In October 1983, the Working Group on Access by the Visually and Auditory Handi-

capped to Material Reproducing Works Protected by Copyright met at Unesco headquarters in Paris. Working from a study prepared by Wanda M. Noel, a Canadian copyright specialist, the group attempted to draft model legislation containing special exemptions from copyright to govern the reproduction of copyrighted works for handicapped users. Two alternative draft model provisions were proposed:

The first permits any qualified organization to reproduce in braille any published work or a translation thereof for the visually handicapped, so long as there is no intent to do so for commercial gain. Further, governments would be empowered to issue regulations governing the reproduction in large print, or the making of a sound recording, or the broadcasting by means of a radio-reading service, of published works, provided that appropriate guarantees are set down to assure that such works and broadcasts are used only for the visually handicapped. In neither case is the prior consent of the author required, nor is any remuneration payable.

The second alternative is essentially the same as the first, save for the fact that payment to the author or copyright owner would be provided for by regulation.

While the proposals of the Working Group have attracted favorable attention, there has also been some criticism that the alternatives at once go too far in exempting works and uses from copyright and not far enough in providing needed concessions, of a statutory or voluntary nature, for persons with handicaps other than those of a visual nature.

Perhaps the most troublesome questions which have arisen from the Working Group's recommendations are practical rather than theoretical: Will national legislatures really find these alternatives attractive and implement them? What is the relationship between these new alternatives and established non-

statutory, voluntary licensing arrangements between rights holders and institutions serving the handicapped?

A striking shortcoming of the Working Group's recommendations concerns developing countries. Although the group appeared to recognize the financial and infrastructural problems facing the Third World, the alternatives proposed are economically feasible only for fairly industrialized societies. The extent to which institutions serving the handicapped in developed states should be encouraged and permitted to share materials for the handicapped with their foreign counterparts, particularly in the Third World, should be addressed.

The report of the Working Group will be discussed at the December 1983 meetings of the UCC's Intergovernmental Committee and the Berne Convention Executive Committee.

The problem of commercial piracy of motion pictures, broadcasts, records, and books has reached nearly alarming proportions throughout the world. In a sense, this phenomenon is due to the rapid and wide dissemination of low-cost technologies of reproduction and performance of protected works. Whole national markets for sound recordings have sprung up wherever low-cost personal audiocassette players are available. The middle classes of advanced developing nations are rapidly becoming a major market for videocassette decks. In broad terms, these are very positive developments; music and the visual arts are being brought to people all over the globe, where only limited access to these sorts of works was available a decade ago. But the consumer's appetite for diverse cultural and intellectual materials has created a class of commercial predators whose activities cost composers, performers, producers, and artists large sums in lost revenues. Curbing piracy without depriving readers and audiences of low-cost access to the global repertory of creative works is the largest single problem in world copyright today. It

challenges the political will of legislators and enforcement officials everywhere; it poses vexing problems of consumer morality; and it introduces, above all, the need for careful and difficult reassessment by copyright-exporting industries of trade practices and licensing arrangements which grew up in an earlier and simpler era.

In March of 1981 WIPO had held a Worldwide Forum on the Piracy of Sound and Audiovisual Recordings—the first such global conference. In March 1983 WIPO held a second conference at its Geneva headquarters. The Worldwide Forum on the Piracy of Broadcasts and the Printed Word, like its predecessor, attracted a large and diverse group of attendees from all points on the globe. Copyright owners, performers' groups, copyright officials from the Third World, and law enforcement specialists exchanged views and information on the nature, scope, causes, and consequences of copyright piracy. A large number of papers were presented, detailing the nature and extent of broadcast and book piracy as well as the impact of piracy on the costs of information to consumers everywhere.

The discussion of broadcast piracy held particular interest for the United States, where these practices have received recent public attention, mostly in the Caribbean region. It is well known that, with the growth of domestic pay-TV services distributed by satellite, a problem has arisen over the unauthorized interception and redistribution of these valuable signals in the Caribbean—an area well within the "footprint" of our satellite systems.

Unauthorized rebroadcasting of Home Box Office (HBO) and other signals by a Jamaican broadcasting organization triggered strong United States industry protests. These protests were heard by the Congress, which wrote into the Caribbean Basin Initiative (CBI) eligibility criteria for CBI benefits which require protection of United States copyrighted materials, particularly against unauthorized broadcasting. Throughout the region, the United States

and neighboring countries are now beginning to come to grips with the intellectual property aspects of satellite communications.

One message which came through loud and clear from the WIPO piracy symposium was the importance of U.S. ratification of the Brussels Satellite Convention, a basic international agreement pledging states to suppress satellite signal "poaching." United States motion picture industry representatives at the symposium called for prompt ratification of the convention by the United States and urged its widest possible acceptance by all states.

The program for study of the copyright problems arising out of cable television's relationships with broadcasting continued to command attention in 1982-83. On December 13, 1982, Subcommittees on Television by Cable of the Berne and UCC Committees met jointly in Paris with the Intergovernmental Committee of the Rome Convention. The subcommittees attempted to reach agreement on Draft Annotated Model Provisions, which were intended to advise legislators on possible approaches to reconciling copyright interests with those of cable.

The first subcommittees' meeting found it impossible to agree on specific legislative-type proposals, particularly on the questions of copyright liability for cable television retransmissions of broadcasts within the latter's so-called "zone of direct reception" and the proper place of compulsory licensing schemes in discharging cable's copyright liabilities.

The subcommittees met again in March 1983, with representatives of fifteen governments in attendance. Once again a consensus eluded the participants, but, significantly, the subcommittees abandoned the search for model laws and embraced instead the concept of a document setting forth more general "principles." With the additional flexibility provided by a "principles" framework, the subcommittees progressed somewhat. Divergent points of view could be expressed and optional solutions or proposals could be noted.

Nonetheless, strong differences persisted over the role of compulsory licensing and the treatment of retransmissions of conventionally receivable broadcast signals.

Following a long and occasionally fractious debate, the secretariats to the three affected conventions were charged with the unenviable task of further refining the annotated statement of principles for consideration at a final subcommittee session scheduled for December 1983.

In Geneva on June 13, 1983, the World Intellectual Property Organization convened the second session of a Committee of Experts on the Legal Protection of Computer Software to consider a draft treaty for the international protection of computer software. The draft of the treaty that was discussed had been prepared by WIPO based upon earlier studies of the software protection question. Delegates to the session were of the opinion that action on a special convention at that time was premature in view of developments at the national level.

WIPO had taken up this question in the 1970s under the auspices of the Paris International Union for the Protection of Industrial Property since, at that time, most legal experts generally believed that protection of computer software would be provided under a patent-like industrial property system. Earlier Committees had developed a Draft Model Law for the Protection of Computer Software that made substantial contributions to the development of legal thinking about the protection to be afforded to computer software at the national level. The draft treaty that was the subject of discussion was based upon the principles contained in the Draft Model provisions.

At the June meeting the experts were of the general opinion that there was a significant trend toward the recognition of computer software as a type of literary work, and that as such the present copyright conventions might provide a workable framework for the

**REPORT OF THE REGISTER OF COPYRIGHTS, 1983**

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international protection of computer programs. In view of this situation the committee endorsed the suggestion that WIPO and Unesco jointly study and convene a committee of experts to examine the extent of protection provided by the existing international copyright conventions.

The committee also considered the question of the protection of integrated circuit or semiconductor chips and recommended that WIPO take action to study this question and prepare

a working paper to be submitted to governments and interested organizations and that further discussion be held on the ways in which this protection might be provided.

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, 1983*

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  
Phonogram Aug. 21, 1982

**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**  
UCC Geneva June 18, 1983  
UCC Paris June 18, 1983  
Phonogram July 29, 1983

**Belau**  
Unclear

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

**Belize**  
UCC Geneva Sept. 21, 1981<sup>1</sup>

**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 Republic**  
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**<sup>1</sup>  
Bilateral Oct. 19, 1899  
BAC Nov. 30, 1916  
UCC Geneva Sept. 16, 1955  
UCC Paris Mar. 7, 1980  
Phonogram June 17, 1982
- 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**<sup>2</sup>  
BAC Oct. 31, 1912  
UCC Geneva May 8, 1983  
UCC Paris May 8, 1983
- 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
- Ghana**  
UCC Geneva Aug. 22, 1962
- Greece**  
Bilateral Mar. 1, 1932  
UCC Geneva Aug. 24, 1963
- Grenada**  
Unclear
- Guatemala**<sup>2</sup>  
BAC Mar. 28, 1913  
UCC Geneva Oct. 28, 1964  
Phonogram Feb. 1, 1977
- Guinea**  
UCC Geneva Nov. 13, 1981  
UCC Paris Nov. 13, 1981
- Guinea-Bissau**  
Unclear
- Guyana**  
Unclear
- Haiti**  
BAC Nov. 27, 1919  
UCC Geneva Sept. 16, 1955
- Honduras**<sup>2</sup>  
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
- 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



<b>Ireland</b> Bilateral Oct. 1, 1929 UCC Geneva Jan. 20, 1959	<b>Luxembourg</b> Bilateral June 29, 1910 UCC Geneva Oct. 15, 1955 Phonogram Mar. 8, 1976	<b>New Zealand</b> Bilateral Dec. 1, 1916 UCC Geneva Sept. 11, 1964 Phonogram Aug. 13, 1976
<b>Israel</b> Bilateral May 15, 1948 UCC Geneva Sept. 16, 1955 Phonogram May 1, 1978	<b>Madagascar</b> (Malagasy Republic) Unclear	<b>Nicaragua<sup>2</sup></b> BAC Dec. 15, 1913 UCC Geneva Aug. 16, 1961
<b>Italy</b> Bilateral Oct. 31, 1892 UCC Geneva Jan. 24, 1957 Phonogram Mar. 24, 1977 UCC Paris Jan. 25, 1980	<b>Malawi</b> UCC Geneva Oct. 26, 1965	<b>Niger</b> Unclear
<b>Ivory Coast</b> Unclear	<b>Malaysia</b> Unclear	<b>Nigeria</b> UCC Geneva Feb. 14, 1962
<b>Jamaica</b> None	<b>Maldives</b> Unclear	<b>Norway</b> Bilateral July 1, 1905 UCC Geneva Jan. 23, 1963 UCC Paris Aug. 7, 1974 Phonogram Aug. 1, 1978
<b>Japan<sup>3</sup></b> UCC Geneva Apr. 28, 1956 UCC Paris Oct. 21, 1977 Phonogram Oct. 14, 1978	<b>Mali</b> Unclear	<b>Oman</b> None
<b>Jordan</b> Unclear	<b>Malta</b> UCC Geneva Nov. 19, 1968	<b>Pakistan</b> UCC Geneva Sept. 16, 1955
<b>Kampuchea</b> UCC Geneva Sept. 16, 1955	<b>Mauritania</b> Unclear	<b>Panama</b> BAC Nov. 25, 1913 UCC Geneva Oct. 17, 1962 UCC Paris Sept. 3, 1980 Phonogram June 29, 1974
<b>Kenya</b> UCC Geneva Sept. 7, 1966 UCC Paris July 10, 1974 Phonogram Apr. 21, 1976	<b>Mauritius</b> UCC Geneva Mar. 12, 1968	<b>Papua New Guinea</b> Unclear
<b>Kiribati</b> Unclear	<b>Mexico</b> Bilateral Feb. 27, 1896 BAC Apr. 24, 1964 UCC Geneva May 12, 1957 UCC Paris Oct. 31, 1975 Phonogram Dec. 21, 1973	<b>Paraguay</b> BAC Sept. 20, 1917 UCC Geneva Mar. 11, 1962 Phonogram Feb. 13, 1979
<b>Korea</b> Unclear	<b>Monaco</b> Bilateral Oct. 15, 1952 UCC Geneva Sept. 16, 1955 UCC Paris Dec. 13, 1974 Phonogram Dec. 2, 1974	<b>Peru</b> BAC Apr. 30, 1920 UCC Geneva Oct. 16, 1963
<b>Kuwait</b> Unclear	<b>Mongolia</b> None	<b>Philippines</b> Bilateral Oct. 21, 1948 UCC status undetermined by Unesco. (Copyright Office considers that UCC relations do not exist.)
<b>Laos</b> UCC Geneva Sept. 16, 1955	<b>Morocco</b> UCC Geneva May 8, 1972 UCC Paris Jan. 28, 1976	<b>Poland</b> Bilateral Feb. 16, 1927 UCC Geneva Mar. 9, 1977 UCC Paris Mar. 9, 1977
<b>Lebanon</b> UCC Geneva Oct. 17, 1959	<b>Mozambique</b> Unclear	<b>Portugal</b> Bilateral July 20, 1893 UCC Geneva Dec. 25, 1956 UCC Paris July 30, 1981
<b>Lesotho</b> Unclear	<b>Nauru</b> Unclear	
<b>Liberia</b> UCC Geneva July 27, 1956	<b>Nepal</b> None	
<b>Libya</b> Unclear	<b>Netherlands</b> Bilateral Nov. 20, 1899 UCC Geneva June 22, 1967	
<b>Liechtenstein</b> UCC Geneva Jan. 22, 1959		

<b>Qatar</b> None	<b>Spain</b> Bilateral July 10, 1895 UCC Geneva Sept. 16, 1955 UCC Paris July 10, 1974 Phonogram Aug. 24, 1974	<b>Uganda</b> Unclear
<b>Romania</b> Bilateral May 14, 1928	<b>Sri Lanka</b> Unclear	<b>United Arab Emirates</b> None
<b>Rwanda</b> Unclear	<b>Sudan</b> Unclear	<b>United Kingdom</b> Bilateral July 1, 1891 UCC Geneva Sept. 27, 1957 UCC Paris July 10, 1974 Phonogram Apr. 18, 1973
<b>Saint Christopher and Nevis</b> Unclear	<b>Surinam</b> Unclear	<b>Upper Volta</b> Unclear
<b>Saint Lucia</b> Unclear	<b>Swaziland</b> Unclear	<b>Uruguay</b> BAC Dec. 17, 1919 Phonogram Jan. 18, 1983
<b>Saint Vincent and the Grenadines</b> Unclear	<b>Sweden</b> Bilateral June 1, 1911 UCC Geneva July 1, 1961 UCC Paris July 10, 1974 Phonogram Apr. 18, 1973	<b>Vanuatu</b> Unclear
<b>San Marino</b> None	<b>Switzerland</b> Bilateral July 1, 1891 UCC Geneva Mar. 30, 1956	<b>Vatican City</b> (Holy See) UCC Geneva Oct. 5, 1955 Phonogram July 18, 1977 UCC Paris May 6, 1980
<b>São Tomé and Príncipe</b> Unclear	<b>Syria</b> Unclear	<b>Venezuela</b> UCC Geneva Sept. 30, 1966 Phonogram Nov. 18, 1982
<b>Saudi Arabia</b> None	<b>Tanzania</b> Unclear	
<b>Senegal</b> UCC Geneva July 9, 1974 UCC Paris July 10, 1974	<b>Thailand</b> Bilateral Sept. 1, 1921	
<b>Seychelles</b> Unclear	<b>Togo</b> Unclear	<b>Vietnam</b> Unclear
<b>Sierra Leone</b> None	<b>Tonga</b> None	<b>Western Samoa</b> Unclear
<b>Singapore</b> Unclear	<b>Trinidad and Tobago</b> Unclear	<b>Yemen (Aden)</b> Unclear
<b>Solomon Islands</b> Unclear	<b>Tunisia</b> UCC Geneva June 19, 1969 UCC Paris June 10, 1975	<b>Yemen (San'a)</b> None
<b>Somalia</b> Unclear	<b>Turkey</b> None	<b>Yugoslavia</b> UCC Geneva May 11, 1966 UCC Paris July 10, 1974
<b>South Africa</b> Bilateral July 1, 1924	<b>Tuvalu</b> Unclear	
<b>Soviet Union</b> UCC Geneva May 27, 1973		

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

**Zambia**  
UCC Geneva June 1, 1965

**Zimbabwe**  
Unclear

<sup>1</sup> Belize notified the Director-General of Unesco on December 1, 1982, of its decision to apply "provisionally, and on the basis of reciprocity" the Universal Copyright Convention as adopted at Geneva on September 6, 1952, the application of which had been extended to its territory before the attainment of independence from the United Kingdom on September 21, 1981.

<sup>2</sup> 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.

<sup>3</sup> 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 1983

Category of material	Published	Unpublished	Total
<b>Nondramatic literary works</b>			
Monographs .....	100,922	28,338	129,260
Serials .....	106,135		106,135
Machine-readable works .....	3,342	2,624	5,966
<b>Total .....</b>	<b>210,399</b>	<b>30,962</b>	<b>241,361</b>
<b>Works of the performing arts</b>			
Musical works .....	26,752	101,045	127,797
Dramatic works, including any accompanying music ....	882	8,649	9,531
Choreography and pantomimes .....	32	75	107
Motion pictures and filmstrips .....	8,436	683	9,119
<b>Total .....</b>	<b>36,102</b>	<b>110,452</b>	<b>146,554</b>
<b>Works of the visual arts</b>			
Two-dimensional works of fine and graphic art, including prints and art reproductions; sculptural works; tech- nical drawings and models; photographs; commercial prints and labels; works of applied art .....	23,950	13,019	36,969
Cartographic works .....	433	9	442
<b>Total .....</b>	<b>24,383</b>	<b>13,028</b>	<b>37,411</b>
Sound recordings .....	9,284	12,465	21,749
Multimedia works .....	1,978	111	2,089
<b>Grand total .....</b>	<b>282,146</b>	<b>167,018</b>	<b>449,164</b>
Renewals .....			39,092
<b>Total, all registrations .....</b>			<b>488,256</b>

*Disposition of Copyright Deposits, Fiscal Year 1983*

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
<b>Nondramatic literary works</b>				
Monographs, including machine-readable works .....	82,792	133,480	7,764	224,036
Serials .....	none	212,270	210,958	423,228
Total .....	82,792	<sup>1</sup> 345,750	<sup>2</sup> 218,722	647,264
<b>Works of the performing arts</b>				
Musical works; dramatic works, including any accompanying music; choreography and pantomimes .....	129,478	31,745	123	161,346
Motion pictures and filmstrips .....	719	<sup>3</sup> 13,864	824	15,407
Total .....	130,197	45,609	947	176,753
<b>Works of the visual arts</b>				
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 .....	66,479	860	280	67,619
Cartographic works .....	142	733	560	1,435
Total .....	66,621	1,593	840	69,054
Sound recordings .....	15,935	8,903	909	25,747
Total, all deposits <sup>3</sup> .....	295,545	401,855	221,418	918,818

<sup>1</sup> Of this total, 81,798 copies were transferred to the Exchange and Gift Division for use in its programs.

<sup>2</sup> Of this total, 66,714 copies were transferred to the Exchange and Gift Division for use in its programs.

<sup>3</sup> Includes 2,970 motion pictures returned to remitter under the Motion Picture Agreement.

Summary of Copyright Business, Fiscal Year 1983

	Registration	Fees
Published works at \$10.00 .....	282,146	\$2,821,460.00
Unpublished works at \$10.00 .....	167,018	1,670,180.00
Renewals at \$6.00 .....	39,092	234,552.00
<b>Total registrations for fee .....</b>	<b>488,256</b>	<b>4,726,192.00</b>
Fees for recording documents .....		158,297.50
Fees for certified documents .....		37,096.00
Fees for searches made .....		115,727.20
Fees for import statements .....		1,002.00
Fees for deposit receipts under 17 U.S.C. 407 .....		660.00
Fees for full-term storage of deposits .....		none
Fees for special handling .....		135,000.00
<b>Total fees exclusive of registrations .....</b>		<b>447,782.70</b>
<b>Total fees .....</b>		<b>5,173,974.70</b>

Statement of Gross Cash Receipts and Number of Registrations  
for the Fiscal Years 1977-1983

Fiscal year	Gross receipts	Number of registrations	Percentage increase or decrease in registrations
1977 .....	\$2,946,492.04	452,702	+ 10.2
1978 .....	<sup>4</sup> 3,957,773.66	<sup>4</sup> 331,962	<sup>4</sup> - 26.7
1979 .....	4,934,173.29	429,004	+ 29.2
1980 .....	4,961,982.34	464,743	+ 8.3
1981 .....	5,248,907.76	471,178	+ 1.4
1982 .....	5,360,515.54	468,149	- 0.6
1983 .....	5,829,652.17	488,256	+ 4.3

<sup>4</sup> Reflects changes in reporting procedure.

*Financial Statement of Royalty Fees for Compulsory Licenses for Secondary  
Transmissions by Cable Systems for Calendar Year 1982*

Royalty fees deposited .....	\$39,691,020.33	
Interest income paid on investments .....	2,578,734.31	
		\$42,269,754.64
Less: Operating costs .....	374,867.00	
Refunds issued .....	517,855.40	
Investments purchased at cost .....	40,822,741.79	
Copyright Royalty Tribunal Cost for Services .....	18,164.00	
		41,733,428.19
Balance as of September 30, 1983 .....		536,326.45
Face amount of securities purchased .....		41,825,000.00
Cable royalty fees for calendar year 1982 available for distribution by the Copyright Royalty Tribunal .....		42,361,326.45

*Financial Statement of Royalty Fees for Compulsory Licenses for  
Coin-Operated Players (Jukeboxes) for Calendar Year 1983*

Royalty fees deposited .....	\$2,696,253.50	
Interest income paid on investments .....	111,913.75	
		\$2,808,167.25
Less: Operating costs .....	160,041.00	
Refunds issued .....	4,531.00	
Investments purchased at cost .....	2,513,125.17	
		2,677,697.17
Balance as of September 30, 1983 .....		130,470.08
Face amount of securities purchased .....		2,333,000.00
Estimated interest income due September 30, 1984 .....		424,314.37
Jukebox royalty fees for calendar year 1983 available for distribution by the Copyright Royalty Tribunal .....		2,887,784.45

Copyright Registrations, 1790-1983

	District Courts <sup>1</sup>	Library of Congress <sup>2</sup>	Patent Office <sup>3</sup>			Total
			Labels	Prints	Total	
1790-1869	150,000					150,000
1870		5,600				5,600
1871		12,688				12,688
1872		14,164				14,164
1873		15,352				15,352
1874		16,283				16,283
1875		15,927	267		267	16,194
1876		14,882	510		510	15,392
1877		15,758	324		324	16,082
1878		15,798	492		492	16,290
1879		18,125	403		403	18,528
1880		20,686	307		307	20,993
1881		21,075	181		181	21,256
1882		22,918	223		223	23,141
1883		25,274	618		618	25,892
1884		26,893	834		834	27,727
1885		28,411	337		337	28,748
1886		31,241	397		397	31,638
1887		35,083	384		384	35,467
1888		38,225	682		682	38,907
1889		40,985	312		312	41,297
1890		42,794	304		304	43,098
1891		48,908	289		289	49,197
1892		54,735	6		6	54,741
1893		58,956		1	1	58,957
1894		62,762		2	2	62,764
1895		67,572		6	6	67,578
1896		72,470	1	11	12	72,482
1897		75,000	3	32	35	75,035
1898		75,545	71	18	89	75,634
1899		80,968	372	76	448	81,416
1900		94,798	682	93	775	95,573
1901		92,351	824	124	948	93,299
1902		92,978	750	163	913	93,891
1903		97,979	910	233	1,143	99,122
1904		103,130	1,044	257	1,301	104,431
1905		113,374	1,028	345	1,373	114,747
1906		117,704	741	354	1,095	118,799
1907		123,829	660	325	985	124,814
1908		119,742	636	279	915	120,657
1909		120,131	779	231	1,010	121,141
1910		109,074	176	59	235	109,309
1911		115,198	576	181	757	115,955
1912		120,931	625	268	893	121,824
1913		119,495	664	254	918	120,413
1914		123,154	720	339	1,059	124,213



Copyright Registrations, 1790-1983

	District Courts <sup>1</sup>	Library of Congress <sup>2</sup>	Patent Office <sup>3</sup>			Total
			Labels	Prints	Total	
1915		115,193	762	321	1,083	116,276
1916		115,967	833	402	1,235	117,202
1917		111,438	781	342	1,123	112,561
1918		106,728	516	192	708	107,436
1919		113,003	572	196	768	113,771
1920		126,562	622	158	780	127,342
1921		135,280	1,118	367	1,485	136,765
1922		138,633	1,580	541	2,101	140,734
1923		148,946	1,549	592	2,141	151,087
1924		162,694	1,350	666	2,016	164,710
1925		165,848	1,400	615	2,015	167,863
1926		177,635	1,676	868	2,544	180,179
1927		184,000	1,782	1,074	2,856	186,856
1928		193,914	1,857	944	2,801	196,715
1929		161,959	1,774	933	2,707	164,666
1930		172,792	1,610	723	2,333	175,125
1931		164,642	1,787	678	2,465	167,107
1932		151,735	1,492	483	1,975	153,710
1933		137,424	1,458	479	1,937	139,361
1934		139,047	1,635	535	2,170	141,217
1935		142,031	1,908	500	2,408	144,439
1936		156,962	1,787	519	2,306	159,268
1937		154,424	1,955	551	2,506	156,930
1938		166,248	1,806	609	2,415	168,663
1939		173,135	1,770	545	2,315	175,450
1940		176,997	1,856	614	2,470	179,467
1941		180,647				180,647
1942		182,232				182,232
1943		160,789				160,789
1944		169,269				169,269
1945		178,848				178,848
1946		202,144				202,144
1947		230,215				230,215
1948		238,121				238,121
1949		201,190				201,190
1950		210,564				210,564
1951		200,354				200,354
1952		203,705				203,705
1953		218,506				218,506
1954		222,665				222,665
1955		224,732				224,732
1956		224,908				224,908
1957		225,807				225,807
1958		238,935				238,935
1959		241,735				241,735
1960		243,926				243,926

Copyright Registrations, 1790-1983

	District Courts <sup>1</sup>	Library of Congress <sup>2</sup>	Patent Office <sup>3</sup>			Total
			Labels	Prints	Total	
1961		247,014				247,014
1962		254,776				254,776
1963		264,845				264,845
1964		278,987				278,987
1965		293,617				293,617
1966		286,866				286,866
1967		294,406				294,406
1968		303,451				303,451
1969		301,258				301,258
1970		316,466				316,466
1971		329,696				329,696
1972		344,574				344,574
1973		353,648				353,648
1974		372,832				372,832
1975		401,274				401,274
1976		410,969				410,969
1976 Transitional qtr. <sup>4</sup>		108,762				108,762
1977		452,702				452,702
1978		<sup>5</sup> 331,942				<sup>5</sup> 331,942
1979		429,004				429,004
1980		464,743				464,743
1981		471,178				471,178
1982		468,149				468,149
1983		488,256				488,256
<b>Total</b>	<b>150,000</b>	<b>19,100,890</b>	<b>55,348</b>	<b>18,098</b>	<b>73,446</b>	<b>19,324,336</b>

<sup>1</sup> Estimated registrations made in the offices of the Clerks of the District Courts (source: pamphlet entitled *Records in the Copyright Office Deposited by the United States District Courts Covering the Period 1790-1870*, by Martin A. Roberts, Chief Assistant Librarian, Library of Congress, 1939).

<sup>2</sup> Registrations made in the Library of Congress under the Librarian, calendar years 1870-1897 (source: *Annual Reports of the Librarian*). Registrations made in the Copyright Office under the Register of Copyrights, fiscal years 1898-1971 (source: *Annual Reports of the Register*).

<sup>3</sup> Labels registered in Patent Office, 1875-1940; Prints registered in Patent Office, 1893-1940 (source: memorandum from Patent Office, dated Feb. 13, 1958, based on official reports and computations).

<sup>4</sup> Registrations made July 1, 1976, through September 30, 1976, reported separately owing to the statutory change making the fiscal years run from October 1 through September 30 instead of July 1 through June 30.

<sup>5</sup> Reflects changes in reporting procedure.