

**From:** Steve Witter <switter@esd101.net>  
**To:** disted@loc.gov <disted@loc.gov>  
**Date:** Monday, March 01, 1999 12:57 PM  
**Subject:** Letter

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E-mail version of this letter was requested by Yvette Carter.

February 1, 1999

Ms. Sayuri Rajapakse  
Attorney-Advisor  
Office of Policy and International Affairs  
U.S. Copyright Office  
Copyright GC/I&R  
P.O. Box 70400, Southwest Station  
Washington, D.C. 20024

Dear Ms. Rajapakse:

I am writing in regard to Section 403 of Digital Millenium Copyright Act on the promotion of distance education.

I am the general manager of STEPStar, a distance learning network providing K-12 and adult literacy programming to the nation. Our programs are disseminated by satellite and cable television, with supplemental support provided through telephone and the Internet. STEPStar is a recipient of Star Schools grant funding from the Office of Educational Research and Improvement in the U.S. Department of Education.

STEPStar is a division of Educational Service District 101, a public agency headquartered in Spokane, WA. Distance learning has been a part of our mission since 1986. We produce nearly 2,000 hours per year of televised educational programming which is seen by students in six time zones.

For our network, the single most troublesome copyright issue is that of obtaining permission to use material. Indeed, it is not uncommon for copyright owners to 1) summarily deny permission or 2) prolong the process so long that even if permission is granted, it is too late for the material to be used.

In my view, there is no substantive difference between a distance learning instructor in our network and an instructor in a traditional public school classroom. The only difference is the medium.

Still, copyright owners too often deny access to instructional materials

which are granted to everyone else. Whenever this happens, students suffer. In

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some cases, students lose complete access to important learning material, while in other cases, they are forced to settle for inferior material. In either case, the learning process is impaired.

Then there is the impact on teachers. Because of the complications of obtaining copyright clearances -- and the dire consequences for those who err -- distance learning instructors no longer can function as full-time educators. Today, they must be armchair attorneys, forced to set aside vast amounts of time and resources for copyright chasing and copyright policing.

As an educator whose primary interest is young people, it is truly disconcerting to divert scarce resources from instruction and learning.

The copyright clearance problem only will become worse as educational technology continues to grow. The problem is by no means limited to digital technology. Whether programs are disseminated by wires or airwaves, words or pictures, analog or digital, the issue remains the same: the permissions process is a time-consuming, bureaucratic maze for all who use educational technology. It is a problem impeding our nation's ability to educate our own citizenry.

Recognizing that a reasonable balance must be reached between the rights of copyright owners and the interests of educational users, my hope is that methods can be devised to expedite the permissions process. One possibility would be creation of a centralized "permissions clearinghouse." A second possibility would be the granting of a blanket "fair use permissions license" for federally recognized Star Schools grantees and other public and/or not-for-profit educational providers.

Thank you for your consideration of my concerns. Please do not hesitate to contact me if you have questions or require additional information.

Sincerely,

Terry A. Munther, Ed.D.  
Superintendent, ESD 101 &  
General Manager, STEPStar Network