

THE LIBRARY OF CONGRESS
COPYRIGHT OFFICE

FIFTY-THIRD ANNUAL REPORT
OF THE
REGISTER OF COPYRIGHTS

FOR THE FISCAL YEAR
ENDING JUNE 30
1950



UNITED STATES
GOVERNMENT PRINTING OFFICE
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CONTENTS

	Page
Copyright Business.....	1
Public Law 84.....	1
Distribution of the Catalog of Copyright Entries.....	1
Improved Accounting Procedure.....	2
Reference Division.....	2
Copyright Bibliography.....	2
Presidential Proclamations.....	2
Argentine Ratification of the Buenos Aires Convention.....	2
Copyright Relations with Cuba.....	3
UNESCO Copyright Project.....	3
Interesting Copyright Cases.....	3
Copyright Deposits, 1946-1950.....	5
Registration by Subject Matter, 1946-1950.....	6
Summary of Copyright Business, 1950.....	7
Publications of the Copyright Office.....	8

The Copyright Office

REPORT TO THE LIBRARIAN OF CONGRESS BY THE REGISTER OF COPYRIGHTS

SIR: A summary of copyright business for fiscal 1950 records an increase over 1949 in all phases of work. Registrations rose from 201,190 to 210,564 (4.6 percent), the increase being reflected in nearly every class. The most notable gain was in the foreign field where registrations grew from 7,151 in 1949 to 11,041 in 1950, or 54 percent. Total fees applied amounted to \$849,595.22, an advance of 1.7 percent beyond the highest previous year, 1949. In spite of this quantitatively larger operation, the work of the Office has been maintained on a substantially current basis throughout the year.

Public Law 84

The unusual increase in the number of foreign registrations during the year is primarily attributable to the amendment to the Copyright Law under Public Law 84 which became effective on June 3, 1949. This act established as an alternative to the registration fee the furnishing of catalog data for foreign works and liberalized the provisions respecting *ad interim* registration of works in English first published abroad. New forms for the registration of foreign books and periodicals (A-B Foreign), for works in English (*ad interim*) and for foreign music (E Foreign) were prepared and circulated to copyright interests abroad, together with explanatory notes and instructions prepared in English and translated into four languages; namely, French, German, Italian and Spanish. These new forms made provision for the necessary catalog data. Statistics through April 1950, indicated that 88.5 percent of the applicants electing

the option made use of the form attached to the application rather than using catalog cards from their national library or themselves devising such cards. Based on the first year's experience, revisions have been made in these forms to render them more useful in the cataloging processes. The revised instructions were published in the *Federal Register* for June 29, 1950.

Several changes were made in Office routines to handle and record *ad interim* applications and related documents. The Service Division, which is concerned with requests for, and records of, import statements, was particularly affected. Of 1,040 *ad interim* registrations made during the year, approximately 1,000 involved requests for import statements for all or part of the 1,500 copies permitted to be imported under the new law.

Distribution of the Catalog of Copyright Entries

Under an arrangement with the Superintendent of Documents, the Copyright Office has assumed responsibility for distribution of the *Catalogs*, except for those copies sent to depository libraries in this country and abroad. A systematic program for bringing the *Catalogs* to the attention of those persons and organizations with a potential interest in them has had the result, among others, of more than tripling sales and subscriptions over those of any previous year. In particular, the *Catalogs* for published music, motion pictures, and maps are finding a wide public.

As part of its general duty to prepare and

develop the *Catalog of Copyright Entries*, the Cataloging Division has continued its studies of ways and means of making its products more useful both for copyright and bibliographic purposes.

Improved Accounting Procedure

With the installation of a new automatic bookkeeping machine, the Accounting Section of the Service Division has been enabled to give better service, especially to those firms frequently making copyright registrations. Periodic statements of deposit accounts will hereafter be supplied to depositors of funds against which registration fees and other items are charged. Heretofore, such statements have been submitted only upon request.

Reference Division

The Compliance Section of this Division has a duty to remind authors and publishers who publish works with a copyright notice, of their obligation to register them in the Copyright Office. Over 90 percent of all book publishers as listed in *Publishers' Weekly* comply with this requirement promptly, but some overlook it in the press of other matters. In the performance of this responsibility, the Compliance Section furthers one of the most important provisions of the Copyright Act; namely, the enrichment of the collections of the Library. During the past year, registrations stimulated by the Section's initiative brought in \$20,124 in fees and added materials valued at \$20,414.50.

The Search Section, in addition to its normal work-load, has assembled complete bibliographies of the registrations of works of various important authors and composers, including John Galsworthy, Clarence Budington Kelland, Béla Bartók and Kurt Weill, and has made substantial progress on other compilations which, when completed, will serve both the Section and the public.

Copyright Bibliography

Under the supervision of Henriette Mertz, a bibliography or checklist of writings on copyright now in the possession of the Library of Congress, has been prepared. This compilation which was sent to the printer at the close of the fiscal year, includes some 5,000 entries of which approximately 1,500 are for works in foreign languages and the remaining 3,500 for works in English. This publication will be given extensive distribution for use by attorneys and others concerned with copyright and will, it is hoped, achieve the further objective of discovering lacunae thereby conversely providing a want-list for acquisition.

Presidential Proclamations

On May 4, 1950, a Presidential Proclamation was issued establishing copyright relations with the new nation of Israel, effective from May 15, 1948, and including protection for mechanical musical rights.

On December 29, 1949, a Presidential Extension Proclamation with Australia was issued providing additional time for complying with formalities with respect to works published, or subject to renewal, since September 3, 1939. This agreement was made self-terminating in one year's time.

On May 26, 1950, the terminations of three previously issued extension proclamations with France, New Zealand and the United Kingdom were proclaimed by the President to be effective December 29, 1950. Appropriate parallel action has been, or will be, taken by the other countries.

Argentine Ratification of the Buenos Aires Convention

The ratification of the Buenos Aires Convention by Argentina was deposited January 19, 1950.

Copyright Relations with Cuba

In order to secure more definite information as to the operation of the Cuban copyright law, particularly in its administrative aspects, and to remove barriers to the registration and protection of United States works, the Register of Copyrights made a trip to Cuba. He secured valuable information as to the present requirements of the Cuban law and conferred with leading organizations and individuals concerned in the subject. Negotiations looking towards a solution are being conducted by the Department of State.

UNESCO Copyright Project

The program of the Copyright Division of UNESCO for a universal copyright convention made progress during the year. A Committee of Experts met in Paris from July 4 to 9, 1949. The United States group was composed of: Luther H. Evans, Arthur Fisher, John Schulman and Charles E. Wyzanski, Jr. As a result of the recommendations of this Committee, a "Request for Views" was submitted to the governments of the world as to the desirability of holding a diplomatic conference to draft a universal convention and the principles which should be embodied in such a convention. These developments were reviewed at meetings of the Copyright Panel of the U. S. National Commission for UNESCO held during the year in Washington and New York. After extensive discussions with representatives of United States interests concerned with copyright and with this Office, the Department of State transmitted its reply to the UNESCO "Request" indicating a favorable attitude towards proceeding with the program and the essential recommendations of the Experts. Following a review of favorable answers received up to that time from some twenty-five countries, UNESCO authorized further study of the replies by a Committee of Experts to meet in Washing-

ton, D. C., from October 23 to November 4, 1950.

Interesting Copyright Cases

There were two important trial court cases during the year: *Blanc v. Lantz* and *Shapiro, Bernstein & Co. v. Miracle Record Co.* Both deal with the question of what constitutes a publication and both decisions are contrary to what generally had been supposed to be the law.

Blanc v. Lantz, 83 U. S. P. Q. 137, is a decision by the California Superior Court for Los Angeles County, involving the musical laugh of the cartoon character, "Woody Woodpecker." After creating this character, the plaintiff, without copyrighting the musical laugh, performed the laugh over the radio and authorized its inclusion in certain motion pictures which were shown throughout the world. The defendant demanded judgment on the pleadings claiming that these acts of the plaintiff constituted a publication and so extinguished his common law rights.

The court granted the defendant's motion on the ground that recording the laugh on the motion picture sound track and showing the picture in many theaters constituted a publication. In the course of an opinion reviewing many cases, the court said:

"Because in years gone by, the only forms of reproduction were by printing or copying on paper, the law should not be so inflexible as to exclude from its non-statutory common law definition of 'publication' forms of copying which are within the announced policy underlying the common law rule under consideration."

The court also laid emphasis on the constitutional policy against perpetual copyright monopolies and the possibility that the words "make public" in the California statute may have a broader meaning than "publication" in the Federal Copyright Act.

The second case is *Shapiro, Bernstein & Co. v. Miracle Record Co.*, 85 U. S. P. Q. 39, 86 U. S. P. Q. 193, (D. C., N. D. Ill. E. Div.), an action for infringement of a copyright in a musical composition. The District Court gave the defendant judgment for a number of reasons, among others that the plaintiff's assignor had abandoned his rights by permitting phonograph records of his composition to be produced and sold before he took out statutory copyright.

The plaintiff moved for a new trial and a brief was filed arguing that phonograph records are not copies of a musical composition and that their sale does not constitute a publication of the musical composition. In denying the motion, Judge Igoe said:

"It seems to me that publication is a practical question and does not rest on any technical definition of the word 'copy.' Nor do the notice and registration provisions of the Copyright Act determine the issue here. Modern recording has made possible the preservation and reproduction of sound which theretofore had disappeared immediately upon its creation. When phonograph records of a musical composition are available for purchase in every city, town and hamlet, certainly the dissemination of the composition to the public is complete and is as complete as by sale of a sheet music reproduction of the composition. The Copyright Act grants a monopoly only under limited conditions. If plaintiff's argument is to succeed here, then a perpetual monopoly is granted without the necessity of compliance with the Copyright Act."

The case of *Verney Corp. v. Rose Fabric Converters Corp.*, 87 F. Supp. 802 (D. C., S. D. N. Y.), relates to the copyright of a design printed on fabrics for dresses. The plaintiff registered a label containing the design in the Copyright Office as a KK, that is "a claim to copyright in a print or label used for article of merchandise," and then printed the design on its dress goods without any copyright notice. The defendant copied the design on its fabrics and

the issue on motion to dismiss the complaint was whether the plaintiff had lost its copyright by publication without a proper copyright notice. The court dismissed the complaint, holding that the plaintiff had lost its copyright both because of publication without proper notice and because of using a design registered as a print or label to be used in connection with the sale of merchandise as a part of the merchandise itself. There is also language in the opinion to the effect that designs for fabrics and for dresses are not copyrightable.

In *Group Publishers v. Winchell*, 86 F. Supp. 573 (D. C., S. D. N. Y.), it was held both that an assignment of copyright not expressly covering the right to sue for a prior infringement gives no such right and that the substitution of the name of the assignee in a copyright notice before the recording of the assignment in the Copyright Office constitutes abandonment of the copyright.

The Copyright Office has always been bothered by the question of *de minimis*; that is, when is a work submitted for copyright registration too scanty to constitute the writing of an author? That problem is considered in *Forstmann Woolen Co. v. J. W. Mays*, 85 U. S. P. Q. 200 (D. C., E. D. N. Y.). In this case, although the plaintiff prevailed on the unfair competition issue, its copyright was held invalid. The claim to copyright related to a label containing the words "Forstmann's 100% Virgin Wool" interwoven with three separate fleurs-de-lis.

The court said that the constitutional provisions as to copyright apply "only to writings . . . as are the result of intellectual labor, . . . not . . . to labels which simply designate or describe the articles to which they are attached and which have no value separated from the articles and no possible influence upon science or the useful arts . . ." Applying that analysis to the facts of our case, there

certainly is nothing artistic about the way in which the plaintiff's name, nor the legend '100% Virgin Wool' appears on the copyright label. That leaves the representation of the fleur-de-lis. Surely and certainly in the form in which the

fleur-de-lis are shown, no originality is displayed."

A somewhat similar problem arose in *Supreme Records v. Decca Records*, 85 U. S. P. Q. 405 (D. C., S. D. Calif.).

NUMBER OF ARTICLES DEPOSITED DURING THE FISCAL YEARS 1946 TO 1950, INCLUSIVE

Class	Subject matter of copyright	1946	1947	1948	1949	1950
A	Books:					
	(a) Printed in the United States:					
	Books proper.....	15,358	19,806	19,572	20,508	22,648
	Pamphlets, leaflets, etc.....	61,108	69,880	71,594	67,854	68,770
	Contributions to newspapers and periodicals.....	5,504	4,410	5,963	3,815	4,437
	Total.....	81,970	94,096	97,129	92,177	95,855
	(b) Printed abroad in a foreign language.	3,660	3,970	2,545	2,644	5,893
	(c) English books registered for ad interim copyright.....	610	713	683	595	1,571
	Total.....	86,240	98,779	100,357	95,416	103,319
B	Periodicals.....	96,578	116,680	119,398	108,374	110,872
C	Lectures, sermons, etc.....	1,129	972	1,263	1,036	1,008
D	Dramatic or dramatico-musical compositions.....	5,877	7,056	6,659	5,720	4,969
E	Musical compositions.....	72,824	79,428	85,359	58,087	65,791
F	Maps.....	2,558	3,526	2,855	4,627	3,273
G	Works of art, models or designs.....	3,938	5,454	5,055	4,349	5,904
H	Reproductions of works of art.....	596	1,064	609	469	620
I	Drawings or plastic works of a scientific or technical character.....	2,375	3,014	2,336	1,603	1,947
J	Photographs.....	2,605	2,982	2,945	1,891	1,939
KK &K	Prints, labels and pictorial illustrations....	26,344	31,848	34,563	35,577	35,233
L	Motion picture photoplays.....	1,545	1,312	1,254	1,330	1,528
M	Motion pictures not photoplays.....	2,440	2,741	1,914	2,111	2,141
	Total.....	305,049	354,856	364,567	320,590	338,544

REGISTRATION BY SUBJECT MATTER CLASSES FOR THE FISCAL YEARS 1946 TO 1950, INCLUSIVE

Class	Subject matter of copyright	1946	1947	1948	1949	1950
A	Books:					
	(a) Printed in the United States:					
	Books proper	7, 679	9, 903	9, 786	10, 254	11, 323
	Pamphlets, leaflets, etc.	30, 554	34, 940	35, 797	33, 929	34, 383
	Contributions to newspapers and periodicals.	5, 504	4, 400	5, 963	4, 140	4, 438
	Total	43, 737	49, 243	51, 546	48, 323	50, 144
	(b) Printed abroad in a foreign lan- guage.	3, 513	3, 970	2, 545	2, 644	3, 710
	(c) English books registered for ad- interim copyright.	610	712	683	595	1, 040
	Total	47, 860	53, 925	54, 774	51, 562	54, 894
B	Periodicals (numbers)	48, 289	58, 340	59, 699	54, 163	55, 436
C	Lectures, sermons, addresses	1, 129	972	1, 263	1, 036	1, 007
D	Dramatic or dramatico-musical compo- sitions	5, 356	6, 456	6, 128	5, 159	4, 427
E	Musical compositions	63, 367	68, 709	72, 339	48, 210	52, 309
F	Maps	1, 304	1, 779	1, 456	2, 314	1, 638
G	Works of art, models or designs	3, 094	4, 044	3, 938	3, 281	4, 013
H	Reproductions of works of art	317	540	309	239	326
I	Drawings or plastic works of a scientific or technical character	1, 777	2, 147	1, 619	1, 063	1, 316
J	Photographs	1, 752	1, 838	1, 844	1, 134	1, 143
KK	Commercial prints and labels	7, 975	9, 674	10, 619	13, 233	13, 320
K	Prints and pictorial illustrations	5, 384	6, 506	6, 686	4, 358	4, 309
L	Motion picture photoplays	774	666	632	667	782
M	Motion pictures not photoplays	1, 250	1, 418	999	1, 096	1, 113
RR	Renewals of commercial prints and labels .	33	21	20		
R	Renewals of all classes	12, 483	13, 180	15, 796	13, 675	14, 531
	Total	202, 144	230, 215	238, 121	201, 190	210, 564

REPORT OF THE REGISTER OF COPYRIGHTS, 1950

7

SUMMARY OF COPYRIGHT BUSINESS, FISCAL YEAR 1950

Balance on hand July 1, 1949.....		\$160,929.05
Gross receipts July 1, 1949 to June 30, 1950.....		879,169.17
		<hr/>
Total to be accounted for.....		1,040,098.22
Refunded.....	\$33,639.05	
Checks returned unpaid.....	1,094.00	
Deposited as earned fees.....	844,105.22	
Balance carried over to July 1, 1950:		
Fees earned in June 1950 but not deposited until July 1950.....	\$73,953.00	
Unfinished business balance.....	12,620.31	
Deposit accounts balance.....	74,686.64	
	<hr/>	161,259.95
		<hr/>
		1,040,098.22

Fees Applied

Registrations for prints and labels.....	13,320 at 6.00	79,920.00
Registrations for published works.....	131,307 at 4.00	525,228.00
Registrations for published works.....	4 at 2.00	8.00
Registrations for unpublished works.....	44,701 at 4.00	178,804.00
Registrations for unpublished works.....	58 at 1.00	58.00
Registrations for renewals.....	14,531 at 2.00	29,062.00
	<hr/>	
Total number of registrations.....	*203,921	
Fees for registrations.....		813,080.00
Fees for recording assignments.....	\$18,916.22	
Fees for indexing transfers of proprietorship.....	5,196.00	
Fees for notices of user recorded.....	2,966.00	
Fees for certified documents.....	2,382.00	
Fees for searches made.....	7,121.00	
	<hr/>	36,581.22
		<hr/>
Total fees earned.....		849,661.22

Respectfully submitted,

SAM BASS WARNER
Register of Copyrights

WASHINGTON, D. C.

August 15, 1950

*Excludes 6,643 Registrations Made Under P. L. 84.

Publications of the Copyright Office

NOTE.—Orders for the following publications may be addressed to the Register of Copyrights, Library of Congress, Washington 25, D. C., accompanied by remittance (postage stamps not accepted—coin at sender's risk).

- BULLETIN NO. 3. Cloth, 35c.
Copyright Enactments of the United States, 1783–1906. 2d ed. rev., 174 pp. 8°. 1906.
- BULLETIN NO. 8. Cloth, 65c.
Copyright in Congress, 1789–1904. A bibliography and chronological record of all proceedings in Congress in relation to copyright. 468 pp. 8°. 1905.
- BULLETIN NO. 14. Paper, 15c.
Copyright Law of the United States of America. (Title 17 of the United States Code.) 1949.
- BULLETIN NO. 17. Cloth, 65c.
Decisions of the United States courts involving copyright. 1909–1914. Second enlarged edition. vi, 279 pp. 8°. 1928.
- BULLETIN NO. 18. Cloth, \$1.
Decisions of the United States courts involving copyright. 1914–1917. ix, 605 pp. 8°. Reprinted 1938.
- BULLETIN NO. 19. Cloth, \$1.75.
Decisions of the United States courts involving copyright. 1918–1924. xi, 477 pp. 8°. Reprinted 1949.
- BULLETIN NO. 20. Cloth, \$2.75.
Decisions of the United States courts involving copyright. 1924–1935. xiii, 947 pp. 8°. Reprinted 1949.
- BULLETIN NO. 21. Cloth, 75c.
Decisions of the United States courts involving copyright. 1935–1937. vii, 355 pp. 8°. 1938.
- BULLETIN NO. 22. Cloth, 75c.
Decisions of the United States courts involving copyright. 1938–June 1939. vii, 327 pp. 8°. 1939.
- BULLETIN NO. 23. Cloth, \$1.
Decisions of the United States courts involving copyright. 1939–1940. vii, 391 pp. 8°. 1943.
- BULLETIN NO. 24. Cloth, \$2.
Decisions of the United States courts involving copyright. 1941–1943. ix, 683 pp. 8°. 1944.
- BULLETIN NO. 25. Cloth, \$1.50.
Decisions of the United States courts involving copyright. 1944–1946. vii, 459 pp. 8°. 1947.
- BULLETIN NO. 26. Cloth, \$1.75.
Decisions of the United States courts involving copyright. 1947–1948. x, 488 pp. 8°. 1949.
- CATALOG OF COPYRIGHT ENTRIES, Third Series.
Subscription may be placed to the complete annual set, consisting of the semiannual issues of all of the parts listed below, for \$20. Copies of single issues may also be secured at the price given following the title in the following list:
- Part 1A. Books and Selected Pamphlets, \$1.50.
 - Part 1B. Pamphlets, Serials and Contributions to Periodicals, \$1.50.
 - Part 2. Periodicals, \$1.
 - Parts 3 and 4. Dramas and Works Prepared for Oral Delivery, \$1.
 - Part 5A. Published Music, \$1.50.
 - Part 5B. Unpublished Music, \$1.50.
 - Part 5C. Renewal Registrations, Music, \$1.
 - Part 6. Maps, \$0.50.
 - Parts 7 to 11A. Works of Art, Reproductions of Works of Art, Scientific and Technical Drawings, Photographic Works, Prints and Pictorial Illustrations, \$1.
 - Part 11B. Commercial Prints and Labels, \$1.
 - Parts 12 and 13. Motion Pictures, \$0.50.

DRAMATIC COMPOSITIONS COPYRIGHTED IN THE UNITED STATES, 1870-1916. Cloth, \$4.

Over 60,000 titles alphabetically arranged, with complete index to authors, proprietors, translators, etc. 2 vols. v, 3,547 pp. 4°. 1918.

MOTION PICTURES COPYRIGHTED IN THE UNITED STATES, 1912-1939. Cloth, \$18.

Describes over 50,000 motion pictures; alphabetically arranged by title, with index to authors, claimants, producing and distributing agencies. Approx. 1,265 pp. 1951.

REGULATIONS OF THE COPYRIGHT OFFICE. Free.

Code of Federal Regulations, Title 37, Chapter II. 2 pp.

