SIXTY-SEVENTH

ANNUAL REPORT OF THE

REGISTER OF COPYRIGHTS

FOR THE FISCAL YEAR ENDING JUNE 30, 1964

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Prime Minister Nehru greeting Mr. Kaminstein, at New Delhi, India, December 1963. The Register of Copyrights served as U.S. Representative at the Fifth Joint Meeting of the UNESCO and Berne Copyright Committees. (By permission of Studio Vale, New Delhi.)

The Copyright Office

Report to the Librarian of Congress by the Register of Copyrights

Fiscal year 1964 was possibly the most active and productive period thus far in the current program for general revision of the copyright law. As the year began, the preparation of a preliminary draft bill was in full swing: 18 draft sections, based upon an exhaustive analysis of the many comments received on the *Report of the Register of Copyrights on the General Revision of the U.S. Copyright Law* and of various foreign laws and earlier revision bills, had already been circulated and discussed at four all-day sessions of the Panel of Consultants on General Revision. During the year, 34 additional draft sections were prepared and circulated. These were discussed at four more Panel meetings: on August 15 and 16, 1963, in Chicago and on October 8, 1963, November 13, 1963, and January 15, 1964, in Washington. Throughout the year officials of the Copyright Office took part in innumerable meetings, discussions, and exchanges of correspondence with the subcommittees formed under American Bar Association Committee 304 on the Program for General Revision of the Copyright Law, with various special committees, and with many interested organizations and individuals.

The purpose of distributing preliminary draft sections for discussion and criticism was to pinpoint and seek comments on all the questions of content and drafting likely to be raised by a general revision bill. The draft included alternative provisions on several controverted issues, and the language was intentionally made detailed and precise to insure that important issues would not be overlooked but would be fully discussed. This plan proved successful in eliciting a large number of meaningful and constructive observations and suggestions which resulted in improvements in language and which paved the way for some necessary compromises.

The second half of the fiscal year was devoted to the large and difficult task of compiling, analyzing, and synthesizing all the comments on the preliminary draft, of making substantive decisions and changes on the basis of these comments, and of completely redrafting the bill, section by section. The preparation of a revised bill for introduction in Congress was undertaken by the Copyright Office General Revision Steering Committee, which has been meeting for over 5 years but never more frequently than during the spring and early summer of 1964. During the period the

committee, which included George D. Cary, the Deputy Register, Abe A. Goldman, General Counsel, Barbara A. Ringer, Assistant Register for Examining, and Waldo H. Moore, Chief of the Reference Division, met regularly with the Register. Miss Ringer and Mr. Goldman were the principal drafters of the revision bill.

Just after the close of the fiscal year, on July 20, 1964, the Copyright Office's bill for the general revision of the copyright law was introduced in the Senate by Senator John L. McClellan (S. 3008) and in the House by Representative Emanuel Celler (H.R. 11947). The bill was also later introduced by Representative William L. St. Onge on August 12, 1964 (H.R. 12354). This event marked a turning point in the revision program. The study and drafting phase is now over; the active legislative phase is opening.

The final draft of the bill as introduced was prepared by the Copyright Office without the direct collaboration or consultation of any private groups or individuals. In addition to simplifying, clarifying, and substantially condensing the language of the preliminary draft, the Office made choices between the various alternatives offered in the earlier draft and also adopted some important substantive changes. In arriving at a final draft the Office was helped immeasurably by the comments it had received, and particularly by the suggestions of the subcommittees of American Bar Association Committee 304 under the able chairmanship of John Schulman. The Office also sought to meet with individuals and groups in an effort to work out viable compromises on as many issues as possible.

Although introduction of the bill is a clear step forward in the progress of revision, it should not be regarded as a final statement of the fixed views of the Copyright Office. It is obvious that important issues and conflicts remain to be settled. For example, further adjustments may need to be sought with respect to questions of Government publications; educational uses of copyrighted material, including educational broadcasting; the status of community antenna systems; the status of jukebox performances; the scope of "works made for hire"; the provision allowing termination of transfers of copyright ownership; and manufacturing requirements. In the coming fiscal year the Copyright Office hopes to work toward reconciling these and other issues, with the immediate goal of presenting a newly revised bill and report to the 89th Congress.

The Year's Copyright Business

Registrations in 1964 rose to an alltime peak of almost 279,000. The total of completed registrations increased more than 14,000, or well over 5 percent. October 1963 was the largest month in the history of the Copyright Office in terms of earned fees, and April 1964 was the second largest month in terms of registrations. The tables appearing at the end of this report give detailed figures.

By far the largest increase was in registrations for periodicals, which gained by nearly 5,000 or more than 7 percent. While coming close, periodical registrations did not quite surpass the total number of registrations for music, which increased by nearly 4 percent and remained the largest single class of material registered. Book registrations also rose by the substantial margin of nearly 5 percent, but among the major classes the largest relative gain (12 percent) was shown by renewals. The number of assignments and related documents recorded increased 9 percent and that of notices of use, 16 percent. In the smaller classes there were surprisingly large increases in works prepared for oral delivery, photographs, and prints and

pictorial illustrations. Motion pictures leveled off, works of art and "designs" decreased by some 5 percent, and commercial prints and labels resumed their decline. Fiscal 1964 was the 12th straight year in which total registrations increased; it marked a gain of 15 percent over the past 5 years and 32 percent over the total of 10 years ago.

Of the applications for registration and other materials received during the year, 86.5 percent were acted upon without correspondence, 2.5 percent were rejected, and 11 percent required correspondence before final action could be taken. Fees earned for registrations and related services again broke all records; the total of $1,133,547 represents an increase of $55,799 or more than 5 percent.

The Cataloging Division prepared over 5,500 pages of copy for the semiannual issues of the eight parts of the *Catalog of Copyright Entries* and produced and distributed nearly 1.7 million catalog cards. Of these, some 620,000 cards were added to the Copyright Card Catalog, 214,000 were sent to subscribers to the cooperative card service, 73,000 were furnished to the Library of Congress, and 781,000 served as copy for the printed *Catalog*.

The Reference Search Section also had a banner year. Almost 10,600 searches were made, a gain of 5 percent. To answer the questions involved in these searches some 68,000 titles were reported, a gain of 21 percent.

Official Publications

Publication of the issues of the *Catalog of Copyright Entries* continued at a nearly normal schedule, although the time lag in publication created in 1962 and 1963 by losses of experienced personnel has not yet been overcome. The typographical format of the *Catalog* was improved during year.

The 18th volume of *Decisions of United States Courts Involving Copyr* (Bulletin 33), covering the period 1961- edited by Benjamin Rudd, was issued November 1963. The Office also publis a revised edition of *Copyright Enactme Laws Passed in the U.S. Since 1783 lating to Copyright*, a 150-page loosel compilation of U.S. laws enacted throu 1962.

Throughout the year transcripts of t meetings of the Panel of Consultants General Revision, at which the prelimina draft of the revision bill was discussed, we edited and issued in multilith form. The will be collected in printed editions duri the following year, together with writt comments received on the draft.

Copyright Contributions to the Library of Congress

In 1964 over 449,000 articles were de posited for copyright registration, repre senting an increase of somewhat less tha 5 percent over the previous year. Of thi total, some 241,000 articles were trans ferred to the Library of Congress for it collections or for disposal through its Ex change and Gift Division. These transfers which were in addition to bulk transfers ir various classes from deposits in previou years, constitute an increase of well over 6 percent, and include most of the current book, periodical, music, and map production of the American publishing industry.

The efforts of the Compliance Section of the Reference Division to obtain compliance with the registration and deposit requirements of the copyright law resulted in more than 12,000 registrations, an increase of some 9 percent over fiscal 1963. The copies deposited as the result of this activity were valued at more than $228,000, and fees were received totaling more than $52,-

000. Correspondence and meetings concerned with efforts to obtain deposit of copyright record sleeves and album jackets continued throughout the year.

Administrative Developments

Throughout fiscal 1964 one of the most pressing problems facing the Copyright Office was the registrability of computer programs. Officials engaged in considerable research into the background of the problem and participated actively in meetings, discussions, and correspondence aimed at resolving the two basic questions involved: (1) whether a computer program as such is the "writing of an author" and thus copyrightable, and (2) whether a reproduction of the program in a form actually used to operate or to be "read" by a machine is a "copy" that can be accepted for copyright registration.

In April 1964 these doubtful questions were decided in favor of registration. The Office announced, however, that before a computer program will be registered it must meet the following requisites:

(1) The elements of assembling, selecting, arranging, editing, and literary expression that went into the compilation of the program must be sufficient to constitute original authorship.

(2) The program must have been published with the required copyright notice—that is, "copies" (i.e. reproductions of the program in the form in which the content is perceptible, or capable of being made perceptible, to the human eye) bearing a notice of copyright must have been distributed or made available to the public.

(3) The copies deposited for registration must consist of or include reproductions in a language intelligible to human beings. Thus, if the material was published only in a form that cannot be perceived visually or read, it was agreed that a readable form such as a print-out of the entire program would have to be deposited also.

In the past, the Copyright Office has undoubtedly made registration for a number of computer programs as parts of larger works such as books and periodicals. The three registrations made near the end of the year, however, were probably the first for computer programs as such, and for this reason they attracted a great deal of attention and publicity. There are indications that the Office's decision is being given careful consideration by those concerned with the development of this vitally important technology.

Difficult problems continued to arise in connection with the deposit of copies of electronic musical compositions since no adequate system exists for notating prerecorded electronic, vocal, or other sounds; in at least one case an oscillogram was accepted as a "copy" of the musical composition. Works written by U.S. Government employees also continued to cause a great deal of correspondence to determine whether they are "publications of the United States Government" and therefore wholly or partly uncopyrightable. Problems presented by the manufacturing clause were intensified by rapid advances in the techniques of book production. Two recurring questions were when to require statements of new matter in certain classes of material (notably maps and music) as well as how to word acceptable statements and what constitutes the "best edition" of a motion picture that has been distributed in more than one size or by more than one process.

A major organizational change took place in the Examining Division in August 1963, when the examination of books and periodicals was merged in fact as well as in theory. Although both operations had come within the jurisdiction of a single

section for many years, in practice the handling of books and periodicals had been kept entirely separate, with resulting difficulties. The merger of the operations was not without its own problems, but there is reason to hope that the benefits from the change will outweigh the disadvantages. Although the Examining Division made a number of procedural changes in an effort to expedite the processing of assignments and other documents, it became increasingly apparent during the year that the indexing of the documents is a function that can be handled more quickly and efficiently in the Cataloging Division. A detailed plan for shifting the operation was formulated, developed, and approved and was ready to be put into effect as the year ended.

In the Reference Division changes worth noting included the establishment of a procedure whereby letters enclosing a search fee can be sent to the Reference Search Section on the day of their receipt in the Copyright Office; the sending (on an experimental basis) of reports to attorneys without receiving the search fee in advance, in cases requiring no more than 2 hours of search time; the undertaking of a large part of the operational liaison between the Copyright Office and the Bureau of Customs; and continued work on the compilation of pre-1909 copyright cases.

In January 1964 the Cataloging Division supplied expanded imprint statements for all materials issued in book format and more specific terms of physical description for many classes. It prepared and distributed extensive revisions of the copyright cataloging rules in order to implement and systematize these practices, and it gave continuing attention to other sections of the rules. From entries originally recorded on 4 x 6 forms, photographically reduced cards were produced for periodical registrations for the 1946–54 segment of the Copyright Card Catalog and claimant cross-references to them were supplied. As the result of the increased workload and the need for better control of incoming material, the Service Division inaugurated a new system of forwarding material to the Examining Division. This innovation proved helpful in assuring that cases are handled in accordance with their date of receipt. The Examining Division undertook a major change in its methods of keeping weekly, monthly, and annual statistics.

In February 1964 the Service Division completed a project of sorting and boxing all of the copyright applications dating from 1898 through June 30, 1909, and transferred 1,767 boxes of applications to the Federal Records Center in Alexandria, Va. In order to free badly needed shelf space, the Office also agreed to destroy certificate mailing records after 5 years, and to transfer letter books of correspondence (carbon copies) to the Records Center after the same period.

In September 1963 the Service Division began making photocopies of certain copyright deposits, applications, and correspondence requested through the Library's Photoduplication Service. This gives quicker and more efficient service by reducing the amount of handling and by providing safeguards not heretofore possible.

More than half of the application forms in use in the Copyright Office were revised during the year. The most difficult revisions involved the wording, on Form A, of the affidavit of domestic manufacture. Representatives of the Book Manufacturers Institute argued that the wording of the affidavit form in use for the past several years encouraged some publishers to have books produced from imported reproduction proofs and that it should conform more closely to the language of section 17 of the statute. This question was also discussed with representatives of the book publishing industry, and efforts to arrive at language which conforms with the statute and yet

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leaves the "repro proof" question open went on for more than a year.

Revisions worth noting were also made in one of the Office's most important information circulars: Circular 35 entitled *General Information on Copyright.* Not only was the wording revised and the text rearranged, but the format was also completely changed in an effort to make a more attractive and readable circular.

All four divisions continued to emphasize staff training during 1964. Staff members took advantage of programs offered within the Copyright Office and elsewhere in the Library of Congress and also courses and seminars presented by the General Services Administration, the Government Printing Office, and the University of Illinois Allerton Park Conference on Research Methods in Librarianship. On October 3, 1963, an all-day seminar on copyright problems was conducted for 34 representatives of the Protestant Church-Owned Publishers' Association, and a similar meeting with representatives of music publishing firms was held on May 15, 1964.

Among the many distinguished foreign visitors to the Copyright Office in fiscal 1964, one stands out as deserving special notice. As part of a 4-month UNESCO fellowship in copyright law, Abdur Rahman Khan, Section Officer of the Ministry of Education of Pakistan, spent several weeks in the Copyright Office. As an official who will be charged with duties connected with the new Pakistan copyright law, Mr. Khan was particularly interested in studying government administrative problems in the copyright field.

Legislative Developments

Because of the great amount of attention given to the program for general revision of the copyright law, other legislative activity in the copyright field during fiscal 1964 was relatively meager. As recounted in last year's report, several bills were introduced in the 88th Congress to repeal or amend the jukebox exemption now contained in section 1(e) of the copyright law. One of these, H.R. 7194, which was introduced by Representative Celler on June 24, 1963, would repeal the exemption but would provide that no proprietor of a jukebox location would be held liable for infringement unless he either owned or controlled the jukebox or refused to identify the owner. This bill (which was also introduced by Representative Seymour Halpern as H.R. 8457 on September 17, 1963) was reported out of the full House Judiciary Committee as of September 10, 1963, with a majority report by Representative Edwin E. Willis strongly supporting the bill and two statements of minority views, by Representatives Byron G. Rogers and Roland V. Libonati, strongly opposing it. The bill was put on the House Calendar and the Rules Committee held hearings on it on June 10, 1964, but it was awaiting further Rules Committee action as the fiscal year ended.

Efforts to secure enactment of legislation for the protection of original ornamental designs of useful articles continued throughout fiscal 1964. As the year began there were four identical bills pending in Congress: H.R. 323 (Flynt), H.R. 769 (Ford), H.R. 5523 (Libonati), and S. 776 (Hart-Talmadge). The Senate had passed an earlier version of the bill during the 87th Congress, and on December 6, 1963, it again passed the bill, following a favorable report submitted by Senator Philip A. Hart on December 4, 1963. On December 12, 1963, the House Judiciary Committee held a 1-day hearing at which the preponderance of the testimony favored the legislation. In the weeks that followed the hearing, however, there were reports

of strong opposition by certain retail merchandising and garment manufacturing interests, related largely to the feared impact of design protection on the wearing apparel industries. Serious attempts were made to compromise the conflicting views and to work out statutory solutions satisfactory to both sides, but no further action had been taken by the House Judiciary Committee as the year ended.

In October 1963 Congress enacted, as Public Law 88–155, a joint resolution dealing with a revised manual of Senate procedure prepared by the Senate Parliamentarian and Assistant Parliamentarian. This measure provides that the work shall be subject to copyright by the authors, "notwithstanding any provisions of the copyright laws and regulations with respect to publications in the public domain." Senate Report No. 785 on the Foreign Aid and Related Agencies Appropriation Bill of 1963 includes a section on unauthorized reproduction of American books and recordings in Nationalist China; the Committee states its view "that the Nationalist Government of China should cooperate in an effort to recognize the rights of American publishers of books and recordings notwithstanding its registration laws, in view of the assistance this country extended and continues to extend in its behalf," and requests the State Department "to continue its unrelenting efforts to protect the rights of American companies."

Although none of the pending bills aimed at granting tax relief to authors was acted upon during the year, the Revenue Act of 1964 (Public Law 88–272) contained provisions which would help to relieve some of the author's tax burden. The act contains a provision enabling any taxpayer with a widely fluctuating income to average 1 year's unusually large income over a period of 5 years, and eliminates the necessity for recomputing the taxes of earlier years.

Judicial Developments

Actions Pending Against the Register of Copyrights

During the year there were two rulings on motions in the famous case of *Public Affairs Associates, Inc.* v. *Rickover*, which has been pending in the courts for over 5 years, and in which the Register of Copyrights and the Librarian of Congress are both defendants. In July 1963 the District Court sustained all of the objections made on behalf of the Register, the Librarian, and the other Government defendants to the voluminous interrogatories which the plaintiff had asked them to answer; Adm. H. C. Rickover was required to answer four of the interrogatories addressed to him. Later in the year arguments were heard on a motion to produce certain documents from the Copyright Office files; the court ordered the Department of Justice to make the documents available to the plaintiff since there was no claim of privilege with respect to them.

A new action in the nature of mandamus, *Armstrong Cork Co.* v. *Kaminstein*, was filed in the District Court for the District of Columbia on January 16, 1964 (Docket No. 119–64). This action seeks to compel the Register to make registration for the design of Armstrong's "Montina" flooring. The application in this case had originally been questioned because the copies of the flooring deposited were not identical, but it developed in the course of correspondence and a series of interviews that no two segments of the flooring can be identical since there is no fixed design that is repeated throughout the goods. The patterns are produced haphazardly as the result of vinyl chips falling at random through a hopper, and neither the shape of the chips nor the linear patterns are subject to control. Thus, as set forth in the answer to the complaint filed on behalf of the Register, regis-

tration has been refused on the ground that the "design" does not constitute the "writing of an author."

Subject Matter of Copyright Protection

Defendants in copyright infringement actions involving commercial designs continued to raise issues of originality and copyrightability, usually with little success. For example, a textile fabric design employing characters "of the Cleopatra era both in appearance and dress" was held original in *John Wolf Textiles, Inc.* v. *Andris Fabrics, Inc.,* 139 U.S.P.Q. 365 (S.D.N.Y. 1962), and in *Loomskill, Inc.* v. *Slifka,* 223 F. Supp. 845 (S.D.N.Y. 1963), *aff'd per curiam,* 330 F. 2d 952 (2d Cir. 1964), the court upheld copyrights in fabric designs adapted from an "Audubon book of birds" on the ground that "presenting old material in a new plan or arrangement is sufficient to lend copyrightability to the resulting work." On the other hand, Judge Bryan in *Manes Fabric Co.* v. *The Acadia Co.,* 139 U.S.P.Q. 339 (S.D.N.Y. 1960), noted that "the 'style' of plaintiff's fabric is apparently derived from illuminated medieval manuscripts and other works of art in the public domain, and it is therefore entitled to less broad protection than if the style were wholly original with it," and added that "the colors in the spectrum have not been successfully removed from the public domain." The copyrightability of color schemes was also rejected in *Clarion Textile Corp.* v. *Slifka,* 223 F. Supp. 950 (S.D.N.Y. 1961).

In *Remco Industries, Inc.* v. *Goldberger Doll Mfg. Co.,* 141 U.S.P.Q. 898 (E.D.N.Y. 1964), the court granted a preliminary injunction against infringement of copyright in "a doll approximately five inches tall, representing a male figure wearing a dark suit and exhibiting a 'mop' haircut associated with the musical group known as the Beatles." In contrast, although the court in *Ideal Toy Corp.* v. *Adanta Novelties Corp.,* 223 F. Supp. 866 (S.D.N.Y. 1963), granted a preliminary injunction against the sale of dolls dressed in clothing similar to that used by the plaintiff on its "Tammy" dolls on grounds of unfair competition, it refused recovery for copyright infringement on the ground that plaintiff's copyright extended only to the unclothed doll, "judging from the description 'doll' in the claim as registered."

The familiar problem of the copyrightability of commercial labels, this time for furniture wax, came before the Ninth Circuit Court of Appeals in *Drop Dead Co.* v. *S. C. Johnson, Inc.,* 326 F. 2d 87 (1963), *cert. denied,* 377 U.S. 907 (1964). In answer to defendant's argument that the label was uncopyrightable because it was largely textual and "used solely to laud the product and instruct in its use," plaintiff argued that it was not claiming "a separate copyright in the instructions and phrases" or "the exclusive right to the use of ovals or gold foil as such," but that its copyright covers only "the total embodiment of the numerous elements of its entire original label." In holding for the plaintiff on grounds that "the 'liberal' rather than the 'strict' rule of what constitutes copyrightable matter has been followed in the Ninth Circuit," the court upheld copyright in the label as "particularly and peculiarly embodying the numerous commonplace elements contained in it," and ruled that "labels which go beyond a mere trademark are copyrightable; if a label has 'some value' as a composition, it no longer is 'a mere label.'"

Another recurrent problem, that of the copyrightability of trade catalogs, was carefully analyzed in *PIC Design Corp.* v. *Sterling Precision Corp.,* 231 F. Supp. 106 (S.D.N.Y. 1964). While upholding plaintiff's copyrights on grounds that "the degree of originality necessary to sustain a copyright is very low," Judge Ryan held that the figures and formulas in tables of

specifications are facts in the public domain; he also cast doubt on the copyrightability of the tabular arrangement of the figures and ruled against the copyrightability of the "format" or "visual impact" of the catalog. In *Addison-Wesley Publishing Co.* v. *Brown,* 223 F. Supp. 219 (E.D.N.Y. 1963), the court upheld copyright in the problems appearing in physics textbooks, including some taken from earlier books, on the basis of "the conception, organization and presentation of material whether new or old"; and the copyrights in a rock and roll song and in a piano arrangement of it, even though "trite" and "commonplace," were upheld in *Nom Music, Inc.* v. *Kaslin,* 227 F. Supp. 922 (S.D.N.Y. 1964).

Several cases during the year involved actions under State law for common law or statutory copyright infringement. Three cases—*Colvig* v. *KSFO,* 140 U.S.P.Q. 680 (Cal. Dist. Ct. App. 1964); *Borden* v. *Andrews,* 139 U.S.P.Q. 557 (Cal. Super. Ct. 1963); and *Land* v. *Jerry Lewis Productions, Inc.,* 140 U.S.P.Q. 351 (Cal. Super. Ct. 1964)—recognized that protection under California law is available for "a particular combination of ideas (which presupposes the expression thereof), or the form in which the ideas are embodied," and that ideas as such may be the subject of contract. A television game format was also held "tangible enough physical property of value in such concrete form" to allow recovery in New York on a theory of implied contract in *Robbins* v. *Frank Cooper Associates,* 19 App. Div. 2d 242, 241 N.Y.S. 2d 259 (1st Dep't 1963). In another case arising under New York law—*CBS* v. *Documentaries Unlimited,* 42 Misc. 2d 723, 248 N.Y.S. 2d 809 (Sup. Ct. 1964)—a news announcer was granted common law copyright protection not only in literary material of his own composition but also in his "voice and style of talking," which the court regarded as "to all intents and purposes, his personality, a form of art expression, and his distinctive and valuable property."

Notice of Copyright

The perennial problem of the statutory notice requirements continued to produce litigation during fiscal 1964, with decisions exemplifying both the "substantial compliance" and the "strict construction" schools of thought on the subject. Selvage notices on textile fabrics were upheld in *John Wolf Textiles, Inc.* v. *Andris Fabrics, Inc.,* 139 U.S.P.Q. 365 (S.D.N.Y. 1962), *Cortley Fabrics Co.* v. *Slifka,* 138 U.S.P.Q. 110 (S.D.N.Y.), *aff'd per curiam,* 317 F. 2d 924 (2d Cir. 1963), and *Loomskill, Inc.* v. *Slifka,* 223 F. Supp. 845 (S.D.N.Y. 1963), *aff'd per curiam,* 330 F. 2d 952 (2d Cir. 1964). In the *Cortley* case, where the selvage notice was "engraved on the rollers and mechanically imprinted on each and every repeat," Judge Levet ruled that the defendant had failed to sustain its "burden of proving that the notice of copyright could have been incorporated in the body of the design." In *Loomskill* the question was closer since the notice was added to selvage of the finished goods after it had been printed, the design itself contained some printed matter, and the plaintiff offered no evidence on the question. Judge Wyatt, with some misgivings, however, upheld the notice because, he said: "Looking at the fabric design itself, it is difficult to see how the copyright notice could be put in the relatively small boxes without destroying the effect."

A surprisingly strict attitude toward the notice requirements was taken by the Seventh Circuit Court of Appeals in *OA Business Publications, Inc.* v. *Davidson Publishing Co.,* 334 F. 2d 432 (1964). It invalidated a notice appearing under the masthead on page 3 of a newspaper on the ground that it was not "on the title page" or "under the title heading," since

"the purported masthead . . . carries only part of the registered title and no volume or number of issue." The work involved in *Neal* v. *Thomas Organ Co.,* 325 F. 2d 978 (9th Cir. 1963), *cert. denied,* 379 U.S. 828 (1964), was an instruction manual for playing the organ; the title appeared on the front cover, the reverse of the cover was blank, and the notice appeared on the next (or third) page. The court, which had a great deal of difficulty with this question, said it recognized that "there is little room here for 'liberal interpretation' or for a consideration of 'Congressional intent,' " and that strict compliance would have required "placing the notice of copyright on the cover or on the fourth page, if the work is a musical composition, or on the second page, if the work is a book." The court held that the third page cannot be considered the "title page" since it does not bear the title, but it upheld the notice, limiting its opinion "to the peculiar circumstances of this case in which the title appears only on the cover and in which the cover is of a harder and less malleable material than the leaves within."

An important and previously unresolved question was dealt with in *Nom Music, Inc.* v. *Kaslin,* 227 F. Supp. 922 (S.D.N.Y. 1964): Can the assignee of copyright in an unpublished work use his name in the copyright notice when the work is published, without first recording his assignment? The court ruled that the use of the assignee's name in this situation is permissible, and that section 32 of the statute applies only where the work had previously been copyrighted in published form.

Ross Products, Inc. v. *New York Merchandise Co.,* 141 U.S.P.Q. 652 (S.D.N.Y. 1964), held that the notice requirements of neither the statute nor the Universal Copyright Convention were satisfied by the word "Copyright" accompanied by a number referring to a Japanese patent, appearing on a hang-tag, although the court refused to rule upon the efficacy of a foreign-language notice. It also declined to decide upon the ultimate validity of the Copyright Office regulation requiring a notice of copyright on copies of a work as first published abroad, deciding only that the regulation is valid and controlling where the author-proprietor is an American citizen.

Publication

There were several decisions during the year involving the troubled question of what constitutes a "publication" that will destroy common law rights in a work. Possibly the most significant was *King* v. *Mister Maestro, Inc.,* 224 F. Supp. 101 (S.D.N.Y. 1963), which involved the right of Martin Luther King to enjoin the unauthorized distribution of phonograph records of his famous speech "I Have a Dream" as delivered during the Freedom March in Washington. The court decided that neither the delivery of the address before a vast public audience and over radio and television nor the distribution to the press of copies of the advance text of the address without copyright notice constituted a "general publication" that destroyed the common law copyright. Similarly, the court in *CBS* v. *Documentaries, Unlimited,* 248 N.Y.S. 2d 809 (Sup. Ct. 1964), referred to the "well-settled rule" that "public performance of a work, such as delivery of a speech, singing of a song, or reading of a script, whether given in public or over the radio or television, is not such a general publication as constitutes a dedication to the public or places it in the public domain, with consequent loss of copyright."

The court in *Nom Music, Inc.* v. *Kaslin,* 227 F. Supp. 922 (S.D.N.Y. 1964), without referring to the line of cases leading to the opposite conclusion, stated: "It is clear . . . that a phonograph record is not a copy of a musical composition and need not contain

a copyright notice, nor is a sale of the record a 'publication' of the underlying composition." A thorough analysis of the case law and other authorities involving publication and the protection of architectural plans is contained in the opinion of the Massachusetts Supreme Court in *Edgar H. Wood Associates, Inc.* v. *Skene,* 197 N.E. 2d 886 (1964). It concluded that the required filing of plans with a building department or other government office is a "limited" rather than a "general" publication, and that since a structure is the result of plans but not a copy of them, the construction and opening of a building is not a publication of the plans.

Registration

There were also several interesting decisions dealing with copyright registration and its effects. The principle, now quite well established, that a certificate of registration constitutes prima facie evidence of the validity of the copyright itself was reiterated in *Addison-Wesley Publishing Co.* v. *Brown,* 223 F. Supp. 219 (E.D.N.Y. 1963), *Hedeman Products Corp.* v. *Tap-Rite Products Corp.,* 228 F. Supp. 630 (D.N.J. 1964), and *Drop Dead Co.* v. *S. C. Johnson,* 326 F. 2d 87 (9th Cir. 1963), *cert. denied,* 377 U.S. 907 (1964). The court in the *Drop Dead* case, in this connection, rejected defendant's arguments that "the Copyright Office is a mere depository," and that "there is no discretion in the Copyright Office, as there is in the Patent Office, as to what is copyrightable and what is not."

In *Ross Products, Inc.* v. *New York Merchandise Co.,* 141 U.S.P.Q. 652 (S.D. N.Y. 1964), a preliminary injunction was refused on two grounds, one of which was the possibility of "fraud and intent to deceive and misrepresent" by the omission of "certain relevant information . . . in the copyright registration form." The court noted that "plaintiff did not fill in any answer to the question concerning possible publication abroad, an answer which might have caused the Copyright Office to reject his application," and stated that "surely this unexplained omission of a material fact . . . casts doubt on the validity of the registration itself."

Renewal and Ownership of Copyright

A problem that the Copyright Office has encountered more than once in renewal examining was involved in *Heywood* v. *Robbins Music Corp.,* 142 U.S.P.Q. 53 (N.Y. Sup. Ct. 1964). This is the so-called "cut-in deal," a practice under which an orchestra leader or performer is incorrectly credited on the copies of a song and in the records of the Copyright Office as one of the authors. Although the court in the *Heywood* case agreed that "Paul Whiteman as a non-composer of the music and as a non-author of the lyrics had no rights whatever" in the renewal term, it refused to grant summary judgment on the ground that, because payment of royalties continued after renewal, plaintiff may be estopped to deny Whiteman's authorship.

The question in *T. B. Harms Co.* v. *Eliscu,* 226 F. Supp. 337 (S.D.N.Y. 1964), was whether, in a dispute over ownership of a renewal copyright, any "infringement" (that is, "any act which uses, violates or threatens the copyrights") had taken place that would justify Federal jurisdiction. The court held that neither a State court action to establish ownership nor the sending of letters claiming royalties constituted infringement. It also held that it was not infringement for defendant to make an assignment of his renewal claim or to record the assignment in the Copyright Office, despite plaintiff's argument that this act placed a cloud upon its title; the court added that the New York Supreme Court "has jurisdiction of the question of title and, if the facts warrant it, power to compel Eliscu to execute an assignment of his interest and a cancellation of the assign-

ment filed in the Copyright Office." A familiar principle that "a license from a co-holder of a copyright immunizes the licensee from liability to the other co-holder for copyright infringement" was confirmed in *McKay* v. *CBS*, 324 F. 2d 762 (2d Cir. 1963), and there is an implication in *Addison-Wesley Publishing Co.* v. *Brown*, 223 F. Supp. 219 (E.D.N.Y. 1963), that textbooks written on special commission are not "works made for hire" within the meaning of the present copyright statute.

International Copyright Protection

Two cases during the year dealt with the protection and requirements of the U.S. copyright law with respect to works first published abroad. In *Ross Products, Inc.* v. *New York Merchandise Co.*, 141 U.S.P.Q. 652 (S.D.N.Y. 1964), the court held that, under the particular circumstances, the placing of copies of a work on public sale in Japan constituted a general publication that put the work in the public domain in the United States. The question in *Beechwood Music Corp.* v. *Vee Jay Records, Inc.*, 226 F. Supp. 8 (S.D.N.Y.), *aff'd per curiam*, 328 F. 2d 728 (2d Cir. 1964), was whether the authorized manufacture and sale of records in a foreign country required the filing of a notice of use in the Copyright Office in order to be entitled to royalties for the manufacture and sale of records in the United States. The lower court held that there is "no support for the contention that the Copyright Act itself, and § 1(e) in particular, has the extraterritorial effect claimed for it," and the Court of Appeals agreed that it would be "quite unreasonable to construe the condition of the compulsory license clause . . . as being satisfied by the manufacture of records in a foreign country, at least when these have not been brought into the United States."

Infringement and the Scope of Copyright Protection

Undoubtedly, the most entertaining and well-publicized decision of the year was that of the Second Circuit Court of Appeals in *Berlin* v. *E. C. Publications, Inc.*, 329 F. 2d 541 (1964), *cert. denied*, 379 U.S. 822 (1964), which held that publication in *Mad Magazine* of "satiric parody lyrics" of copyrighted songs was fair use rather than infringement since the parodies had "neither the intent nor the effect of fulfilling the demand for the original" and since there was no substantial appropriation. Another musical infringement case, *Nom Music, Inc.* v. *Kaslin*, 227 F. Supp. 922 (S.D.N.Y. 1964), contains a painstaking and interesting comparison of the music and lyrics of two rock-and-roll songs.

The special problems of proof arising in cases involving infringement of copyrighted catalogs were dealt with in *Hedeman Products Corp.* v. *Tap-Rite Products Corp.*, 228 F. Supp. 630 (D.N.J. 1964), and *PIC Design Corp.* v. *Sterling Precision Corp.*, 231 F. Supp. 106 (S.D.N.Y. 1964). In the *Hedeman* case the defendant argued that copying must be "material and substantial" in order to constitute an infringement and that, since defendant had copied less than 1 percent of the total page area of plaintiff's catalog, no infringement had been established. The court held, however, that "the 'material and substantial' test is not . . . to be applied to plaintiff's entire catalog but to each component part [i.e., each illustration] which has been infringed." The court in the *PIC* case noted that copyright in a catalog protects the illustrations but not the products illustrated, but that "sufficient latitude exists in the draftsman's art of illustration to make suspect any drawing exactly reproducing one in a prior circulated catalog." While acknowledging that it would ordinarily be impossible to prove infringement of a table of figures in the public domain, the court

held that, where "the same errors (or 'printer's traps') appear in an earlier and later publication, it is fair and reasonable . . . to infer copying."

Three fabric design decisions reported during the year—*Manes Fabric Co.* v. *The Acadia Co.*, 139 U.S.P.Q. 339 (S.D.N.Y. 1960), *Clarion Textile Corp.* v. *Slifka*, 223 F. Supp. 950 (S.D.N.Y. 1961), and *Condotti, Inc.* v. *Slifka*, 223 F. Supp. 412 (S.D. N.Y. 1963)—all involved cases in which there were strong similarities between plaintiff's and defendant's designs, the color schemes were the same, and a degree of copying could be inferred. In each instance, however, the court ruled in favor of the defendant on the ground that he had "not passed the bounds of idea appropriation." As stated by the court in the *Manes* case: "There is an important difference between a slavish copy which alters a few details and an independent work executed in similar colors and in a similar style."

A novel question concerning the extent of protection under a copyright arose in *Addison-Wesley Publishing Co.* v. *Brown*, 223 F. Supp. 219 (E.D.N.Y. 1963): whether publication of answers to problems published in physics textbooks constituted infringement rather than fair use. The court suggested that the conversion of plaintiff's verbalisms into symbols, sign conventions, equations, and graphical representations might actually be considered an unauthorized "translation," and held that their publication constituted an infringement since the solutions were specifically keyed in with the questions, included studied paraphrases, and had no independent viability.

Two cases during the year dealt with the important question of what constitutes a "public performance for profit" of a copyrighted musical composition. In *Lerner* v. *Schectman*, 228 F. Supp. 354 (D. Minn. 1964), the performance in "a bona fide membership club," not open to the general public, was held to be a "public performance for profit" on grounds that "there were no meaningful qualifications for membership" and that "the membership served no function in relation to the organization or operation of the club." *Chappell & Co.* v. *Middletown Farmers Market & Auction Co.*, 334 F. 2d 303 (3d Cir. 1964), dealt with performances from recordings of copyrighted music played in the central office of a large merchandise mart and transmitted over a system of 58 loudspeakers located throughout the defendant's premises and parking lot. The Court of Appeals ruled this an infringement, holding that the ownership of lawfully made records does not carry with it the right to perform them publicly for profit, and that, whether or not the playing of the records was connected with their sales promotion, their performance was an infringement since "it was commercially beneficial to the Mart to have an attractive shopping atmosphere."

The widespread problem of "fake-books" (unauthorized compilations of the melody lines of hundreds of popular songs) reached the courts in *Shapiro, Bernstein & Co.* v. *Bleeker*, 224 F. Supp. 595 (S.D. Cal. 1963), which held a retail vendor liable on grounds that the copyright law gives "not only the exclusive right to *copy*, but also to *vend* the copyrighted work."

Practical problems of procedure in infringement actions were involved in *Electronic Publishing Co.* v. *Zalytron Tube Corp.*, 226 F. Supp. 760 (S.D.N.Y. 1964), and *Leo Feist, Inc.* v. *Debmar Publishing Co.*, 232 F. Supp. 623 (E.D. Pa. 1964). The *Electronic* case involved a catalog which plaintiff had prepared for a corporation not a party to the action. Defendants moved to dismiss for failure to join an indispensable party, but the court denied the motion. The *Feist* case involved the alleged infringement of "In a Little Spanish

Town" by "Why," a question previously litigated in England by the same parties. The defendants contended that the matter was *res judicata* since the English court had found that there had been no copying. The court ruled for defendants, holding that although the principle of *res judicata* was not applicable because the English and American suits were brought under different statutes and for different acts of infringement, the doctrine of collateral estoppel would apply to a fact litigated in a foreign court.

Remedies for Infringement

One of the most unsettled areas in the copyright law is that dealing with the statutory remedies for copyright infringement: damages, profits, injunctions, attorneys' fees, etc. One of the most important decisions on these questions in recent years was rendered by the Second Circuit Court of Appeals in *Peter Pan Fabrics, Inc.* v. *Jobela Fabrics, Inc.*, 329 F. 2d 194 (1964), which held that recovery under the copyright law is " 'cumulative,' encompassing both net profits of the infringer and damages of the copyright holder," rather than " 'alternative,' allowing either profits or damages, whichever is greater." Moreover, even though only actual profits had been proved, the court held that a higher award under the statutory damages provision was permissible. In *Fruit of the Loom, Inc.* v. *Andris Fabrics, Inc.*, 227 F. Supp. 977 (S.D.N.Y. 1963), an award of actual damages based on estimated loss of potential sales of 75,000 yards was upheld, even though plaintiff's unsold inventory consisted of less than 10,000 yards, on the ground that "defendant's actions destroyed a substantial and promising market."

The confused question of how many infringements there are in a case for purposes of computing statutory damages arose in *Hedeman Products Corp.* v. *Tap-Rite Products Corp.*, 228 F. Supp. 630 (D.N.J. 1964), and in *Shapiro, Bernstein & Co.* v. *Bleeker*, 140 U.S.P.Q. 111 (S.D. Cal. 1963). In the *Hedeman* case the court held that "each copying by defendant of an illustration, which had been separately prepared by plaintiff, was a separate infringement." In contrast, where the defendant's "fake-book" in the *Shapiro, Bernstein* case contained 1,000 songs, 12 of which were copyrighted by the plaintiff, the court considered it "obvious" that a recovery of either $250,000 or $3,000 would be unjust and required proof of actual damages and profits.

Mailer v. *RKO Teleradio Pictures, Inc.*, 332 F. 2d 747 (2d Cir. 1964), was an action by Norman Mailer for infringement of copyright in *The Naked and the Dead*, based on a clause in his contract with the defendant film company under which motion picture rights were to revert to him if production of the film were not completed within a specified period. The Court of Appeals held that the picture was substantially completed within the time provided and upheld the award against Mailer of $5,000 as counsel fees on the ground that "this sort of litigiousness cannot be condoned." *Universal Pictures Co.* v. *Schaefer*, 140 U.S.P.Q. 17 (E.D. Pa. 1963), was one of the rare reported decisions dealing with the seizure and impounding provisions of the law; the court held that defendant was guilty of civil contempt when he concealed or withheld from the Federal marshal copies covered by a seizure order and that fines for contempt are payable to plaintiffs. In the "Beatle doll" case, *Remco Industries, Inc.* v. *Goldberger Doll Mfg. Co.*, 141 U.S.P.Q. 898 (E.D.N.Y. 1964), the court granted a preliminary injunction because "the promotional nature of the copyrighted dolls has a life span which may be extraordinarily short," but required plaintiff to post security of $25,000.

Unfair Competition and Copyright

On March 9, 1964, the Supreme Court of the United States handed down two decisions, *Sears, Roebuck & Co.* v. *Stiffel Co.*, 376 U.S. 225, and *Compco Corp.* v. *Day-Brite Lighting, Inc.*, 376 U.S. 234, which promise to have a fundamental effect on the future of the copyright law and, indeed, of the entire field of intellectual and industrial property. Holding, in the words of Justice Black, "that when an article is unprotected by a patent or a copyright, state law may not forbid others to copy that article," the decisions appear to restrict the scope of protection under theories of unfair competition and common law copyright, and to lend greater importance to statutory patent and copyright law.

Like many another landmark case, *Sears* and *Compco* succeeded in raising more questions than they settled. It seemed clear from the decisions, for example, that if a work comes within the subject matter of the copyright statute and has been published, the States are preempted from giving it protection equivalent to copyright. This conclusion is supported by the decisions in *Duplex Straw Dispenser Co.* v. *Harold Leonard & Co.*, 229 F. Supp. 401 (S.D. Cal. 1964); *Mastro Plastics Corp.* v. *Emenee Industries, Inc.*, 141 U.S.P.Q. 311 (N.Y. Sup. Ct. 1964); and *Wolf and Vine, Inc.* v. *Pioneer Display Fixture Co.*, 142 U.S.P.Q. 112 (N.Y. Sup. Ct. 1964). The New York Supreme Court, however, in *Flamingo Telefilm Sales, Inc.* v. *United Artists Corp.*, 141 U.S.P.Q. 461 (1964), seems to reach a different result. It held, in an action involving the unauthorized exploitation, distribution, and exhibition of a television program incorporating a "substantial segment" of plaintiff's uncopyrighted motion picture, that the rule of *Sears* and *Compco* is limited to cases involving "copying," and is "to be distinguished from the instant case where the complaint, essentially, is of an appropriation of the very item licensed . . ., the use of the identical product for the profit of another."

Another question involves the status of unpublished works: Are the States now preempted from protecting them if they come within the subject matter of copyright? The decision in *CBS* v. *Documentaries Unlimited*, 248 N.Y.S. 2d 809 (Sup. Ct. 1964), suggests that the preemption doctrine of the *Sears* and *Compco* decisions does not extend to unpublished works, and the decision of the Massachusetts Supreme Court, in *Edgar H. Wood Associates, Inc.* v. *Skene*, 197 N.E. 2d 886 (1964), contains a specific holding to that effect. A far more difficult question is whether the States may continue to offer the equivalent of copyright protection to published works (such as recorded performances and industrial designs) that may be "writings" within the Constitution but do not come within the scope of the present copyright statute. In *Capitol Records, Inc.* v. *Greatest Records, Inc.*, 142 U.S.P.Q. 109 (1964), the New York Supreme Court followed its "appropriation-copying" distinction in the earlier *Flamingo* case and held that the "law of this jurisdiction is still '. . . that, where the originator . . . of records of performances by musical artists puts those records on public sale, his act does not constitute a dedication of the right to copy and sell the records.'" The ultimate answers to these and other fundamental questions—for example, whether the States can decide what is published and what is unpublished, and whether the Federal Government itself can give protection equivalent to copyright under trademark or other statutes—remain for the courts to evolve in the months and years to come.

Antitrust Action

The ASCAP consent decree was judicially interpreted in *United States* v. *American Society of Composers, Authors and Publishers*, 331 F. 2d 117 (2d Cir. 1964), an

appeal from a judgment denying petitions by local television stations for the fixing of new "blanket license" and "per program" fees. The court affirmed the judgment on the ground that the consent decree does not require the granting of the kinds of licenses requested.

International Developments

The international protection of intellectual property passed another milestone in 1964 with the coming into force of the Neighboring Rights Convention (the International Convention for the Protection of Performers, Producers of Phonograms, and Broadcasting Organizations), signed at Rome on October 26, 1961. In accordance with its terms, the convention came into effect on May 18, 1964, 3 months after the sixth country had deposited its instrument of ratification, acceptance, or accession. Three countries—Congo (Brazzaville), Sweden, and Niger—had previously deposited their instruments, and deposits were made by the United Kingdom on October 30, 1963, Ecuador on December 19, 1963, and Mexico on February 17, 1964. Later in the year, Czechoslovakia acceded to the convention subject to reservations, and Congo (Brazzaville) filed notification that it was also making its accession subject to reservations.

Additional adherences to the Universal Copyright Convention by Greece, Peru, and New Zealand brought the membership to a total of 48 countries, and Mexico ratified the Buenos Aires Copyright Convention of 1910. During the year the Universal Copyright Convention was made applicable to the Falkland Islands, Kenya, St. Helena, and Seychelles. Kenya became independent, however, on December 12, 1963, and Zanzibar, to which the United Kingdom previously had declared the Universal Copyright Convention applied, gained independence on December 10, 1963. North Borneo and Sarawak, to which the convention had also been declared applicable, are now members of the new state of Malaysia, as is Singapore, with which the United States had copyright relations by virtue of a proclamation. The problems arising from the lack of copyright relations between the United States and the many newly formed countries that have been created from former dependencies continue to increase; the table below attempts to show all of the independent countries of the world and the basis of their copyright relations, if any, with the United States.

International Copyright Relations of the United States as of November 1, 1964

This table shows the status of United States copyright relations with the 123 other sovereign independent countries of the world.

The following code is used:

UCC	Party to the Universal Copyright Convention, as is the United States.
BAC	Party to the Buenos Aires Convention of 1910, as is the United States.
Bilateral	Bilateral copyright relations with the United States by virtue of a proclamation or treaty.
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.

Country	Status of Copyright Relations	Country	Status of Copyright Relations
Afghanistan	None.	Germany	Bilateral; UCC with German Federal Republic.
Albania	None.		
Algeria	Unclear.		
Andorra	UCC.	Ghana	UCC.
Argentina	UCC, BAC, Bilateral.	Greece	UCC, Bilateral.
Australia	Bilateral.	Guatemala	UCC, BAC.
Austria	UCC, Bilateral.	Guinea	Unclear.
Belgium	UCC, Bilateral.	Haiti	UCC, BAC.
Bhutan	None.	Holy See (Vatican City)	UCC.
Bolivia	BAC.	Honduras	BAC.
Brazil	UCC, BAC, Bilateral.	Hungary	Bilateral.
Bulgaria	None.	Iceland	UCC.
Burma	Unclear.	India	UCC, Bilateral.
Burundi	Unclear.	Indonesia	Unclear.
Cambodia	UCC.	Iran	None.
Cameroon	Unclear.	Iraq	None.
Canada	UCC, Bilateral.	Ireland	UCC, Bilateral.
Central African Republic	Unclear.	Israel	UCC, Bilateral.
Ceylon	Unclear.	Italy	UCC, Bilateral.
Chad	Unclear.	Ivory Coast	Unclear.
Chile	UCC, BAC, Bilateral.	Jamaica	Unclear.
China	Bilateral.	Japan	UCC.
Colombia	BAC.	Jordan	Unclear.
Congo (Brazzaville)	Unclear.	Kenya	Unclear.
Congo (Leopoldville)	Unclear.	Korea	Unclear.
Costa Rica	UCC, BAC, Bilateral.	Kuwait	Unclear.
Cuba	UCC, Bilateral.	Laos	UCC.
Cyprus	Unclear.	Lebanon	UCC.
Czechoslovakia	UCC, Bilateral.	Liberia	UCC.
Dahomey	Unclear.	Libya	Unclear.
Denmark	UCC, Bilateral.	Liechtenstein	UCC.
Dominican Republic	BAC.	Luxembourg	UCC, Bilateral.
Ecuador	UCC, BAC.	Madagascar	Unclear.
El Salvador	Bilateral by virtue of Mexico City Convention, 1902.	Malawi	Unclear.
		Malaysia	Unclear.
		Mali	Unclear.
Ethiopia	None.	Malta	Unclear.
Finland	UCC, Bilateral.	Mauritania	Unclear.
France	UCC, Bilateral.	Mexico	UCC, BAC, Bilateral.
Gabon	Unclear.	Monaco	UCC, Bilateral.

International Copyright Relations of the United States as of November 1, 1964—Con.

Country	Status of Copyright Relations	Country	Status of Copyright Relations
Morocco	Unclear.	Soviet Union	None.
Muscat and Oman	None.	Spain	UCC, Bilateral.
Nepal	None.	Sudan	Unclear.
Netherlands	Bilateral.	Sweden	UCC, Bilateral.
New Zealand	UCC, Bilateral.	Switzerland	UCC, Bilateral.
Nicaragua	UCC, BAC.	Syria	Unclear.
Niger	Unclear.	Tanzania	Unclear.
Nigeria	UCC.	Thailand	Bilateral.
Norway	UCC, Bilateral.	Togo	Unclear.
Pakistan	UCC.	Trinidad and Tobago	Unclear.
Panama	UCC, BAC.	Tunisia	Unclear.
Paraguay	UCC, BAC.	Turkey	None.
Peru	UCC, BAC.	Uganda	Unclear.
Philippines	Bilateral; UCC status undetermined.	United Arab Republic (Egypt)	None.
Poland	Bilateral.	United Kingdom	UCC, Bilateral.
Portugal	UCC, Bilateral.	Upper Volta	Unclear.
Rumania	Bilateral.	Uruguay	BAC.
Rwanda	Unclear.	Venezuela	None.
San Marino	None.	Vietnam	Unclear.
Saudi Arabia	None.	Western Samoa	Unclear.
Senegal	Unclear.	Yemen	None.
Sierra Leone	Unclear.	Yugoslavia	None.
Somalia	Unclear.	Zambia	Unclear.
South Africa	Bilateral.		

During the year there were three important international copyright meetings: the African Study Meeting in Brazzaville, Congo, August 5–10, 1963; the Meeting of a Committee of Experts on the Stockholm Conference of Revision of the Berne Union in Geneva, Switzerland, in November 1963; and the Fifth Joint Meeting of the Intergovernmental Copyright Committee and the Berne Permanent Committee in New Delhi, India, in December 1963. The African Study Meeting was organized by UNESCO and the United International Bureaux for the Protection of Intellectual Property (BIRPI) to consider adoption by the new African nations of domestic copyright legislation and their adherence to one or more of the international copyright conventions. Twenty-three of the 30 countries invited to the meeting attended, as did several observers including the U.S. Register of Copyrights. It is evident that the countries attending the meeting are clearly interested in adopting domestic legislation and in developing international copyright relations but are not prepared to operate under a copyright system similar to those in Western European countries. They asked UNESCO and BIRPI to draft a model law designed for their needs, and another meeting will probably be held to consider the resulting draft.

The Geneva meeting of the Committee of Experts discussed proposals for amendment of the Berne Convention, in preparation for a Revision Conference scheduled for Stockholm in 1967. Sixteen Berne countries were invited to send experts, and 12 did so. The United States was invited to attend as an observer and was repre-

sented by the Register. A variety of substantive and technical points were considered; those concerning motion pictures, particularly the question of whether the convention should include a system of presumptions concerning the ownership of certain rights in a film, were the most important and difficult issues discussed. Failure of the Geneva meeting to resolve the presumption question led to a later suggestion that BIRPI convene a Committee of Governmental Experts before the Stockholm Conference.

The joint meeting in New Delhi, at which the United States was also represented by the Register, considered reports on the exploitation of musical scores, the photographic reproduction of copyrighted works by libraries, relations between the Rome Neighboring Rights Convention and the European Agreement on the Protection of Television Broadcasts, and the use of criminal proceedings in cases of copyright infringement. The growth in membership of the Universal Copyright Convention has raised a problem of representation on the Intergovernmental Copyright Committee, and consideration is being given to plans enabling broader and more formal participation by countries not members of the committee. Proposals for introducing translation provisions into the Berne Convention and for introducing compulsory licenses to reproduce copyrighted works for educational purposes into both conventions were noted for study and report at the next joint session, which may take place in 1965.

Respectfully submitted,

ABRAHAM L. KAMINSTEIN
Register of Copyrights

October 27, 1964

Registration by Subject Matter Classes for the Fiscal Years 1960–64

Class	Subject matter of copyright	1960	1961	1962	1963	1964
A	Books (including pamphlets, leaflets, etc.):					
	Manufactured in the United States	55, 713	57, 794	61, 787	63, 936	66, 789
	Manufactured abroad (except those registered for ad interim copyright)	3, 740	3, 819	4, 007	3, 764	4, 079
	Registered for ad interim copyright	581	802	777	745	889
	Subtotal	60, 034	62, 415	66, 571	68, 445	71, 757
B	Periodicals (issues)	64, 204	66, 251	67, 523	69, 682	74, 472
	(BB) Contributions to newspapers and periodicals	3, 306	3, 398	2, 993	2, 535	2, 529
C	Lectures, sermons, addresses	835	1, 029	875	806	1, 112
D	Dramatic or dramatico-musical compositions	2, 445	2, 762	2, 813	2, 730	3, 039
E	Musical compositions	65, 558	65, 500	67, 612	72, 583	75, 256
F	Maps	1, 812	2, 010	2, 073	2, 002	1, 955
G	Works of art, models, or designs	5, 271	5, 557	6, 043	6, 262	5, 915
H	Reproductions of works of art	2, 516	3, 255	3, 726	4, 003	4, 045
I	Drawings or plastic works of a scientific or technical character	768	705	1, 014	780	893
J	Photographs	842	765	562	725	995
K	Prints and pictorial illustrations	3, 343	2, 955	2, 889	2, 594	3, 325
	(KK) Commercial prints and labels	8, 142	7, 564	7, 167	7, 318	7, 013
L	Motion picture photoplays	2, 755	3, 089	2, 686	3, 207	3, 018
M	Motion pictures not photoplays	702	1, 565	955	1, 009	1, 089
R	Renewals of all classes	21, 393	18, 194	19, 274	20, 164	22, 574
	Total	243, 926	247, 014	254, 776	264, 845	278, 987

Statement of Gross Cash Receipts, Yearly Fees, Number of Registrations, etc., for the Fiscal Years 1960–64

Fiscal year	Gross receipts	Yearly fees applied	Number of registrations	Increase in registrations
1960	$1, 033, 563. 55	$974, 113. 03	243, 926	2, 191
1961	1, 078, 991. 90	1, 009, 679. 04	247, 014	3, 088
1962	1, 111, 705. 76	1, 043, 587. 75	254, 776	7, 762
1963	1, 123, 598. 21	1, 077, 747. 79	264, 845	10, 069
1964	1, 206, 453. 60	1, 133, 546. 57	278, 987	14, 142
Total	5, 554, 313. 02	5, 238, 674. 18	1, 289, 548	

Number of Articles Deposited During the Fiscal Years 1960–64

Class	Subject matter of copyright	1960	1961	1962	1963	1964
A	Books (including pamphlets, leaflets, etc.):					
	Manufactured in the United States	111, 426	115, 588	123, 574	127, 872	133, 578
	Manufactured abroad (except those registered for ad interim copyright)	6, 549	6, 698	6, 985	6, 533	6, 965
	Registered for ad interim copyright	786	979	963	919	869
	Subtotal	118, 761	123, 265	131, 522	135, 324	141, 412
B	Periodicals (issues)	128, 328	132, 410	134, 928	138, 827	149, 073
	(BB) Contributions to newspapers and periodicals	3, 306	3, 398	2, 993	5, 070	5, 058
C	Lectures, sermons, addresses	835	1, 029	875	806	1, 112
D	Dramatic or dramatico-musical compositions	2, 840	3, 203	3, 276	3, 127	3, 413
E	Musical compositions	83, 005	83, 723	85, 325	92, 223	95, 287
F	Maps	3, 621	4, 020	4, 146	4, 004	3, 910
G	Works of art, models, or designs	9, 273	9, 599	10, 534	10, 993	10, 367
H	Reproductions of works of art	4, 996	6, 502	7, 423	7, 986	8, 084
I	Drawings or plastic works of a scientific or technical character	1, 118	1, 062	1, 438	1, 148	1, 347
J	Photographs	1, 355	1, 156	957	1, 221	1, 594
K&KK	Prints, labels, and pictorial illustrations	22, 965	21, 038	20, 112	19, 820	20, 669
L	Motion picture photoplays	5, 498	6, 162	5, 352	6, 338	5, 984
M	Motion pictures not photoplays	1, 271	2, 959	1, 788	1, 880	2, 049
	Total	387, 172	399, 526	410, 669	428, 767	449, 359

SUMMARY OF COPYRIGHT BUSINESS, FISCAL YEAR 1964

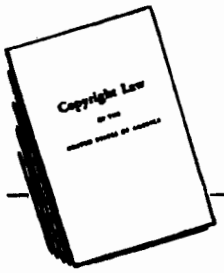
Balance on hand July 1963			$256,661.80
Gross receipts July 1, 1963, to June 30, 1964			1,206,453.60
Total to be accounted for			1,463,115.40
Refunded		$42,982.16	
Checks returned unpaid		2,918.75	
Deposited as earned fees		1,122,195.17	
Balance carried over July 1, 1964:			
Fees earned in June 1964 but not deposited until July 1964	$94,522.70		
Unfinished business balance	44,615.34		
Deposit accounts balance	151,540.09		
Card service	4,341.19		
		295,019.32	
			1,463,115.40
7,013 registrations for prints and labels at $6.00 each			42,078.00
174,748 registrations for published domestic works at $4.00 each			698,992.00
3,073 registrations for published foreign works at $4.00 each			12,292.00
60,390 registrations for unpublished works at $4.00 each			241,560.00
22,574 registrations for renewals at $2.00 each			45,148.00
267,798 total number of registrations*			
Fees for registrations			1,040,070.00
Fees for recording assignments		$27,658.50	
Fees for indexing transfers of proprietorship		17,987.50	
Fees for notices of use recorded		13,178.50	
Fees for certified documents		3,109.00	
Fees for searches made		22,599.00	
Card service		8,944.07	
			93,476.57
Total fees earned			1,133,546.57

**Excludes 11, 189 made under provisions of law permitting registration without payment of fee for certain work of foreign origin.*

Publications of the Copyright Office

Priced Copyright Office publications which may be obtained from Government Printing Office

Orders for all the publications listed below should be addressed and remittances made payable to the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C., 20402.



COPYRIGHT LAW OF THE UNITED STATES OF AMERICA (Title 17, United States Code), Bulletin No. 14. This is a pamphlet edition of the copyright law, including the REGULATIONS OF THE COPYRIGHT OFFICE (Code of Federal Regulations, Title 37, ch. II). 62 pages, 1963, paper, 25 cents.

COPYRIGHT ENACTMENTS—Laws Passed in the United States Since 1783 Relating to Copyright. Bulletin No. 3 (Revised). Looseleaf in binder. 150 pages, 1963, $2.00.

REPORT OF THE REGISTER OF COPYRIGHTS ON THE GENERAL REVISION OF THE U.S. COPYRIGHT LAW. Copyright Law Revision, House Committee Print. 160 pages, July 1961, 45 cents.

COPYRIGHT LAW REVISION, PART 2—Discussion and Comments on Report of the Register of Copyrights on the General Revision of the U.S. Copyright Law. House Committee Print. 419 pages, February 1963, $1.25.

COPYRIGHT LAW REVISION, PART 3—Preliminary Draft for Revised U.S. Copyright Law and Discussions and Comments on the Draft. House Committee Print. 457 pages, September 1964, $1.25

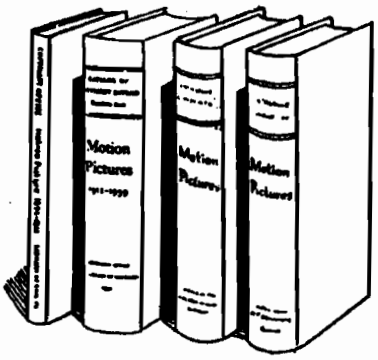
COPYRIGHT LAW REVISION, PART 4—Further Discussions and Comments on Preliminary Draft for Revised U.S. Copyright Law. House Committee Print. 477 pages, December 1964, $1.25.

CATALOG OF COPYRIGHT ENTRIES. Paper. Each part of the catalog is published in semiannual numbers containing the claims of copyright registered during the periods January–June and July–December. The prices given below are for the year. Semiannual numbers are available at one-half the annual price.

Part 1—Books and Pamphlets Including Serials and Contributions to Periodicals	$5.00
Part 2—Periodicals	2.00
Parts 3–4—Dramas and Works Prepared for Oral Delivery	2.00
Part 5—Music	7.00
Part 6—Maps and Atlases	1.00
Parts 7–11A—Works of Art, Reproductions of Works of Art, Scientific and Technical Drawings, Photographic Works, Prints and Pictorial Illustrations	2.00
Part 11B—Commercial Prints and Labels	2.00
Parts 12–13—Motion Pictures and Filmstrips	1.00
Annual Subscription Price, all parts	20.00

These catalogs are usually available 6 months after the close of a registration period. Although orders should be addressed to the Superintendent of Documents, the Copyright Office will furnish information on catalogs prior to 1961 upon request.

Catalog of Copyright Entries, Cumulative Series



MOTION PICTURES 1894–1912. Identified from the records of the United States Copyright Office by Howard Lamarr Walls. 92 pages. 1953. Buckram, $2.00.

MOTION PICTURES 1912–1939. Works registered in the Copyright Office in Classes L and M. 1,256 pages. 1951. Buckram, $18.00.

MOTION PICTURES 1940–1949. Another decade of works registered in Classes L and M. 599 pages. 1953. Buckram, $10.00.

MOTION PICTURES 1950–1959. Films of the Fifties registered in Classes L and M. 494 pages. Buckram, $10.00.

These four volumes list a total of nearly one hundred thousand motion pictures produced since the beginning of the motion picture industry.

Copyright Law Revision Studies

COPYRIGHT LAW REVISION. Studies prepared for the Subcommittee on Patents, Trademarks, and Copyrights of the Committee on the Judiciary, U.S. Senate. Committee prints published by the Senate Committee, the preparation of which was supervised by the Copyright Office.

First committee print; Studies 1–4:
1. The History of U.S.A. Copyright Law Revision from 1901 to 1954
2. Size of the Copyright Industries
3. The Meaning of "Writings" in the Copyright Clause of the Constitution
4. The Moral Right of the Author.
142 pages, 1960, 40 cents.

Second committee print; Studies 5 and 6:
5. The Compulsory License Provisions of the U.S. Copyright Law
6. The Economic Aspects of the Compulsory License.
125 pages, 1960, 35 cents.

Third committee print; Studies 7–10:
7. Notice of Copyright
8. Commercial Use of the Copyright Notice
9. Use of the Copyright Notice by Libraries
10. False Use of Copyright Notice.
125 pages, 1960, 35 cents.

Fourth committee print; Studies 11–13:
11. Divisibility of Copyrights
12. Joint Ownership of Copyrights
13. Works Made for Hire and on Commission.
155 pages, 1960, 45 cents.

Fifth committee print; Studies 14–16:
14. Fair Use of Copyrighted Works
15. Photoduplication of Copyrighted Material by Libraries
16. Limitations on Performing Rights.
135 pages, 1960, 35 cents.

Sixth committee print; Studies 17–19:
17. The Registration of Copyright
18. Authority of the Register of Copyrights to Reject Applications for Registration
19. The Recordation of Copyright Assignments and Licenses.
135 pages, 1960, 40 cents.

Seventh committee print; Studies 20 and 21:
20. Deposit of Copyrighted Works
21. The Catalog of Copyright Entries.
81 pages, 1960, 25 cents.

Eighth committee print; Studies 22–25:
22. The Damage Provisions of the Copyright Law
23. The Operation of the Damage Provisions of the Copyright Law: An Exploratory Study
24. Remedies Other Than Damages for Copyright Infringement
25. Liability of Innocent Infringers of Copyright.
169 pages, 1960, 45 cents.

Ninth committee print; Studies 26–28:
26. The Unauthorized Duplication of Sound Recordings
27. Copyright in Architectural Works
28. Copyright in Choreographic Works.
116 pages, 1961, 35 cents.

Tenth committee print; Studies 29–31:
29. Protection of Unpublished Works
30. Duration of Copyright
31. Renewal of Copyright.
237 pages, 1961, 60 cents.

Eleventh committee print; Studies 32–34:
32. Protection of Works of Foreign Origin
33. Copyright in Government Publications
34. Copyright in Territories and Possessions of the United States.
57 pages, 1961, 25 cents.

Subject Index to Studies 1–34.
38 pages, 1961, 15 cents.

Bulletins

DECISIONS OF THE UNITED STATES COURTS INVOLVING COPYRIGHT. The series contains substantially all copyright cases, as well as many involving related subjects which have been decided by the Federal and State courts. Cloth.

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