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"To promote the Progress of Science and useful Arts. . . ."

*Report to the Librarian of Congress by the Register of Copyrights*

# THE COPYRIGHT OFFICE

## OVERVIEW: A YEAR OF SUCCESS AND CELEBRATION

During Fiscal Year 1990 the Copyright Office celebrated the Bicentennial of copyright in the United States and coped heroically with severe budgetary constraints. Library of Congress departments have been renamed service units. The name is especially appropriate for no single word describes so well the activities of the Copyright Office as "service." The Copyright Office continued its tradition of service by processing more claims to copyright than in any previous year—686,854—and by registering more claims to copyright than in any previous year—642,604. Making these statistics more remarkable is the fact that we achieved this record with 24 fewer staff members than the year before.

How were five percent fewer employees able to handle six percent more work? Many factors contributed to such production. Two explanations are that management and staff worked consultatively and through Labor-Management Satellite Groups to devise time-saving procedures, and that managers and computer specialists adapted as many technological solutions as the budget allowed to perform labor-intensive, repetitive tasks. The concept of management asking staff representatives for suggestions, listening to and studying the suggestions, and implementing staff proposals has been a cornerstone of the Consultative Management style of the Copyright Office.

However, the best explanation for success in 1990 lies in the strong character of the 488 members of the Copyright Office staff and their sense of *esprit de corps*. "Character" describes staff members in various units and divisions who willingly accepted more duties and responsibilities. Character explains the fact that the feared holiday backlog never materialized in the Mail and Correspondence Control Section. The mail room staff, hampered by vacancies and coping with new duties, remained current during a period when backlogs had traditionally developed by pushing themselves to the limit to get the job done. The men and women in the mail room are emblematic of all the other men and women in the Copyright Office. This year, when the constrained budget would not permit filling vacancies, character and caring prevailed.

Register of Copyrights Ralph Oman publicly congratulated his staff when he delivered his annual State of the Office address. He described receiving compliments from representatives of the various publics served by the Copyright Office. But he bluntly characterized the budget dilemma that the staff faced. "These are gloomy times on the budget front, and it's no news to you that lack of funding is creating real hardship." Because the hiring freeze had resulted in many unfilled vacancies, "the rest of us . . .shoulder an extra burden."

Help for the beleaguered staff will come, he promised, if Congress passes the fee increase legislation that the Office requested. The hope that the Register held out to the staff came true. Congress passed the Copyright Fees and Technical Amendments Act of 1989, and President George Bush signed it into law on July 3, 1990. The fee increase, the first since 1978, will generate additional revenue to restore the level of service to the copyright community which has been hurt by the federal budget reductions in recent years.

The service that the Copyright Office provides to the international community is also service to our nation. Saying that our copyrighted creations entertain the world is not hyperbole. While American exports have suffered a general decline, intellectual property exports are thriving. The International Intellectual Property Alliance reported that during 1989 copyright industries generated more than $303 billion in value added to the Gross National Product, that these industries represent 5.8 percent of the GNP, and that they provide jobs

for more than five million Americans. Moreover, the Alliance reported that copyrighted materials (including pre-recorded records and tapes, motion pictures, home videos, computer software, periodicals, music, books, and newspapers) generated foreign sales of $22.3 billion. This amount is larger than the foreign sales of the U.S. aircraft and spacecraft industries. American copyrighted materials are indeed one of our most profitable exports.

The Register of Copyrights, who is also the Associate Librarian of Congress for Copyright Services, and his staff attended intellectual property conferences in the United States, in Geneva, in the Pacific Basin, and in other European, African, Asian, and Middle East countries and cities. The Copyright Office, in conjunction with the World Intellectual Property Organization (W.I.P.O.) sponsored several seminars under the auspices of the International Copyright Institute where U.S. copyright experts met with officials from other countries, discussed their copyright systems, and explained the U.S. system. Emphasis was placed on encouraging nations to provide increased protection for U.S. works and to eliminate piracy of copyrighted works—theft that robs American creators each year of billions of dollars in royalties.

The Copyright Office provided service to the nation by helping to negotiate bilateral copyright agreements. A major component of the trade agreement announced after the June summit meeting between President Bush and President Gorbachev was a bilateral intellectual property agreement, which was produced after many meetings between Copyright Office officials and Soviet officials.

The Copyright Office extended service to the copyright community by advising Congress and the W.I.P.O. on measures that, if enacted, will bring U.S. law closer to agreement with provisions of the Berne Convention. Since March 1, 1989, when U.S. membership in the Berne Convention for the Protection of Literary and Artistic Works came into force, the United States has ended a period of qualified participation in multilateral copyright relations and has begun a period of full participation in world copyright affairs, to the great benefit of American creators. The voluntary jukebox licensing agreement signed on March 1, 1990, between copyright owner interests and coin-operated phonorecord player owner representatives fulfilled a provision of the Berne Convention Implementation Act of 1988, and brought U.S. law closer to agreement with the provisions of the Berne Convention. Several pieces of legislation before Congress this session would bring the United States still closer to conformity. One is a bill extending copyright protection to architectural works, which enjoy protection under the Berne Convention. Another is a bill providing moral rights protection to creators of visual arts. Under Berne Article 6 *bis*, moral rights are extended to creators of works of the visual arts.

The Register of Copyrights and Policy Planning Advisor Lewis Flacks, after extensive consultations with colleagues in the Administration, and with Congress and the private sector, participated this year in a continuing series of meetings with the W.I.P.O. to develop a model copyright law. The United States played a pivotal role in drafting language for the model law that protects U.S. interests.

The Register and Flacks participated in the Uruguay Round of multilateral trade talks under the General Agreement on Tariffs and Trade (G.A.T.T.). For the first time the rules of world trade under G.A.T.T. would be expanded to include protection for intellectual property. In accordance with those rules, failure to provide adequate and effective intellectual property protection would allow a G.A.T.T. member nation to bring trade retaliatory measures. The Copyright Office has been a part of the delegation negotiating the trade-related aspects of intellectual property rights (TRIPS) to be included in the G.A.T.T. The Register and Flacks have been involved during 1990 in drafting and negotiating U.S. proposals under TRIPS in the G.A.T.T.

The Copyright Office continued its service to Congress this year by providing expert testimony at hearings in both houses, advising legislators of copyright implications of various bills, and by working with Congressional staffs in drafting legislation. The Register of Copyrights testified before committees and subcommittees in the Senate and the House of Representatives on proposed legislation bearing on copyright protection for architectural works, on computer software rental, on digital audio taping and home audio taping in general, on design protection, on the concept of fair use of unpublished materials, on moral rights for motion pictures, and on proposed exemptions for public performances of copyrighted works on videocassettes in hospitals and nursing homes.

During 1990, the Copyright Office celebrated the Bicentennial of copyright in America. The constitutional foundation for copyright and patent protection can be found in Article I, Section 8, Clause 8 of the United States Constitution. Various governmental units handled copyrights until 1870 when federal registration in the Library of Congress began. The celebration highlighted important copyright creations and creators. Conferences and symposia examined the past, present, and future of copyright, its significance and prospects. Parties feted copyright creators—young and old, established and beginning.

By serving the creative community in the United States, by serving Congress, by serving the world intellectual property community, and by contributing to the collections of the Library of Congress, the men and women of the Copyright Office build on a tradition of service.

## BICENTENNIAL OF COPYRIGHT

More than two hundred years ago the Framers of the United States Constitution laid the constitutional foundation for copyright and patent in these words:

To promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries.

President Washington signed the first federal copyright bill into law on May 31, 1790.

During Fiscal Year 1990, the Copyright Office celebrated the passage of that first federal law, and the creative and artistic contributions protected thereunder. As early as 1985, Register of Copyrights Ralph Oman began planning for a spectacular series of events. Organizations interested in the protection of intellectual property—the Copyright Office, the Patent and Trademark Office, the American Intellectual Property Law Association, the American Bar Association, the Copyright Society, and many private organizations—formed the Foundation for a Creative America to coordinate plans and raise funds.

The cooperation and hard work of many individuals within the Copyright Office and the Library of Congress ensured that the Bicentennial plans came to fruition. Marilyn Kretsinger served as the Copyright Office coordinator for the Bicentennial. A Copyright Office Bicentennial Committee was chaired by Eric Schwartz and Kretsinger. Linda Barnes, Frank Evina, Ellen Lazarus, Victor Marton, Michele Murphy, Richard Neldon, Harriet Oler, and Dawn Thompson served on the committee. Many other staff members donated special talents and services to various projects.

Working with the Patent and Trademark Office, the committee assembled a Patent and Copyright Bicentennial Calendar that went on sale during the 1989 holiday season. This attractive calendar featured a wealth of facts and trivia, including important copyright or patent events that occurred on a particular day. It was so successful that it will be reprinted as a handbook.

The Library hosted a Bicentennial Film Festival in the Mary Pickford Theater of the Madison Building during May. Pat Loughney of the Motion Picture, Broadcasting and Recorded Sound Division developed the festival, which was titled "From Steamboats to Flubber."

The Copyright Office and the National School Boards Association sponsored a Young Creator's Contest. Secondary school students competed in seven categories: short story, poem, musical work, dramatic work, videotape or other audiovisual work, photograph, and computer program. The contest drew more than 5,000 entries from across the nation. Copyright Office volunteers judged the preliminary round; winners were selected by professionals. This contest would not have been possible without the cooperation of private sector groups who provided the funding and the experts for the final judging.

The celebration reached its peak during the week of May 6-11. The opening event was a special screening of *Fantasia* for foreign guests. The Librarian of Congress, James H. Billington, welcomed foreign dignitaries to the Library for a two-day seminar, "Intellectual Property: The American Experience." The seminar was sponsored by the Library, with the generous contribution of Merck & Co. The Register of Copyrights and the Commissioner of Patents and Trademarks, Harry Manbeck, chaired the seminar. Speakers included former Senator Charles McC. Mathias; Dr. Arpad Bogsch, Director General of the World Intellectual Property Organization; Jason Berman, President of the Recording Industry Association of America; former Commissioner of Patents Donald W. Banner; Ambassador Nicholas Veliotes, President of the Association of American Publishers; and former Register of Copyrights Barbara Ringer. Noted composer-lyricist Richard Sherman provided musical entertainment. Accompanying himself on the piano, Sherman sang many of the songs that he and his brother Robert have written, concentrating on the ones written for Walt Disney, including the appropriate "It's A Small, Small World."

The Register and the Commissioner of Patents spoke at the Patent and Trademark Office's outdoor "Birthday Celebration" on May 7. The Copyright Office staff held its own celebration on May 9. It began with the Register's annual State of the Office address in which he praised the staff for their dedication and described the budgetary problems facing the Copyright Office. The Bicentennial Brass, the Library of Congress Chorale, and a soloist, General Counsel Dorothy Schrader, entertained the audience. Schrader, a Mezzo-Soprano, received a rousing ovation after she sang "The Fire of Genius," the lyrics of which were written by the Register. The Chorale's songs of freedom celebrating America's composers and authors evoked similar approval. During the reception which followed, staff members were entertained by a jazz quartet and a brass quartet.

Following the reception, staff members previewed the Bicentennial Exhibit, "America Creates: 200 Years of Patents and Copyrights." This exhibition was made possible by the joint cooperation of the Library of Congress, the Foundation for a Creative America, the Patent and Trademark Office, and the Association of Science and Technology Centers. Many staff members worked on this exhibit, especially Frank Evina, curator of the copyright material, and Trellis Wright, the Library consultant.

A profusely illustrated time line depicting actual works of American authors and inventors from 1790-1990 was the exhibit's focal point. One could follow the time line and see the historical events that influenced these works and the common ground shared by men of letters and men of science. It featured more than 150 significant patented and copyrighted works.

Displays on the copyrights generated by L. Frank Baum's *The Wizard of Oz* and the patents generated by the sewing machine were special attractions. The *Oz* display illustrated the many derivative works that often spring from one seminal work.

*The Philadelphia Spelling Book*, the first copyright entry under the 1790 act, was also on display.

Following the opening at the Library from May 11-June 15, the exhibit is scheduled for 11 additional U.S. cities from June 15-October of 1992. Then it will become a permanent exhibit in the Inventors' Hall of Fame in Akron, Ohio.

On May 8, Secretary of Commerce Robert Mosbacher, the Librarian of Congress, and Director General Bogsch officially opened the Bicentennial conference. More than 1,000 delegates from the United States and 60 other countries attended.

On May 9, a law and history symposium featured presentations on "The Past, Present and Future of the American Patent and Copyright Systems." The Philadelphia Bar Association Theater Wing performed a dramatic re-enactment of the "Birth of the Patent and Copyright Systems." Several symposia considered, among other topics, "Intellectual Property in the Courts" and "Historical Perspective: Two Viewpoints, Cultural History of Broadcasting and Recording."

Young creators and young inventors were recognized at a luncheon on May 10. The Register announced the names of the winners in the Young Creator's Contest, and author James Michener presented their medals. Later that evening, Third Century Awards were given to 11 outstanding authors and inventors, including composer Leonard Bernstein, 1988 Nobel Prize for Medicine recipient Gertrude B. Elion, and singer-composer Stevie Wonder.

On May 11, the Librarian welcomed nearly 500 distinguished guests, including Representative Lindy Boggs and other Members of Congress, to a ceremony in the Great Hall. This ceremony, the capstone of the week, officially opened the Bicentennial Exhibit and closed the conference. The music was performed by the Library of Congress Chorale and the United States Army Orchestra. Charlotte Givens and Geoffrey Simon coordinated the musical program. The chorale and orchestra were directed by Major Charles B. DuBose and Dr. Simon. Indra Thomas and Schrader were the featured soloists.

## INTERNATIONAL DEVELOPMENTS

Although United States adherence to the Berne Convention was achieved without major amendments to the 1976 Copyright Act, the Convention has already begun to assume a growing importance in U.S. international copyright relations. The centrality of the Convention has been seen in a variety of multilateral fora, including the General Agreement on Tariffs and Trade (G.A.T.T.), the work of the W.I.P.O. in preparing an international model copyright law and in important new bilateral copyright initiatives. Events in 1990 demonstrated that Berne adherence has added credibility and substance to U.S. efforts to improve the international protection enjoyed by our copyright industries. Yet, at the same time, entry into the Berne Union has prompted greater scrutiny of U.S. copyright law and practices by the members of the Berne Union itself.

While the United States has been promoting global acceptance of the strong and balanced rights of the Convention in certain countries, the compatibility of our own law with Berne is being examined by many long-time members of the Union. Perhaps the most important long-term developments this year concerned debates over whether important aspects of United States copyright law—and U.S. policy objectives for the future of copyright—fit into the established policy preferences of members of the Berne Union. These questions have raised a broader question for the Berne Union: how the Convention can successfully accommodate Continental and Common Law legal traditions in a rapidly changing world?

In no area has this tension between what Berne is and what many countries, including the United States, want it to become, been more evident than the G.A.T.T. negotiations to establish minimum standards of copyright protection as part of the obligations of states participating in the world trading system.

### The TRIPS Negotiations

One of the major objectives of the Uruguay Round of multilateral trade negotiations is to link the G.A.T.T. benefits of free and open trade to the adequate and effective protection of intellectual

property. The objective contemplates not only comprehensive standards of protection which all countries must provide to G.A.T.T. Contracting Parties, but a genuine independent, multilateral mechanism for the settlement of disputes between states over the adequacy and effectiveness of their carrying out G.A.T.T. intellectual property obligations.

Achieving a G.A.T.T.-based system of copyright obligations—going both to normative standards and enforcement measures—has been a major objective of American government and industry. In the context of a trade agreement, it was thought, modernization of the Berne Convention could be secured which was not achievable at a Berne revision conference. Yet, as the intellectual property negotiations in G.A.T.T. enter their final year, it has been demonstrated once again how slow, painful, and difficult a process international copyright reform remains, in any forum.

The United States entered the G.A.T.T. negotiations seeking certain clarifications and enhancements to the core rights of the Berne Convention. Central to G.A.T.T.-based copyright obligations would be the incorporation of the obligations of the 1971 Paris Act of the Berne Convention itself. In addition, the United States sought additional protection (the so-called "Berne Plus" standard).

The additions to Berne minimum rights involved: first, closely tying computer program protection to copyright for literary works under Berne; second, clarifying Berne Convention rules for protection of collections as applied to data bases and other compilations of materials other than works in their own right; third, removing impediments faced by juridical entities who are "authors" under U.S. law in foreign countries which limit the concept of "author" to natural persons; fourth, inhibiting the growth of compulsory licensing by confining it to areas specifically sanctioned by international conventions and circumstances in which private licensing proves impossible; fifth, to create an internationally acceptable definition of "public" in connection with rights tied to public activities; sixth, to build into the G.A.T.T. a concept of copyrightability which is as broadly stated and susceptible of incorporating new and even unknown forms of original expression as is our 1976 Copyright Act; and, seventh, to broaden the legal basis for international protection of sound recordings to include copyright and bring rights in sound recordings more closely in line with those enjoyed by literary and artistic works.

Achieving these objectives has proven extremely difficult, largely based upon the resistance of industrialized Berne Union members to entertain standards which would materially affect the application of the 1971 Paris Act of Berne. The complex and vexing issue of moral rights of authors--at least in U.S. circles—has also arisen, complicating the G.A.T.T. copyright negotiation. Indeed, the passion with which industry has sought the exclusion of moral rights from the G.A.T.T. copyright standard has perhaps diluted the primary effort to include enhanced economic rights into that standard. There is certainly no doubt that the position of the United States on moral rights under the G.A.T.T. standard has deepened the sense of division between us and our negotiating partners in the industrialized world.

As Fiscal Year 1990 came to a close, the TRIPS negotiating group had yet to reach agreement. Yet, certain elements of a copyright standard appeared to be taking shape, particularly to base the standard on the Paris Act of Berne, to bring computer program and data bases more firmly within the Convention and to provide some enhancements of protection enjoyed by sound recordings (particularly in respect of the duration of protection which should be increased).

Serious disagreements remain unresolved in important areas, including distribution rights (both in regard to rights to control unauthorized importation of copies of works into national markets and commercial rental rights), legitimation of the right of juridical entities in Contracting States to have their status as authors respected in other countries, moral rights and whether enhanced protection of record producers interests must be linked

to express protection of performers and broadcasting organizations.

### The World Intellectual Property Organization Model Copyright Law

If the G.A.T.T. negotiations hinted at the divergent approaches to copyright and authors' rights of the United States and Union members sharing Continental legal traditions, these and other differences were brightly highlighted during the second and third meetings of the Committee of Governments Experts on Model Legislation in the Field of Copyright, meeting under the auspices of the World Intellectual Property Organization.

At Committee meetings in November 1989 and July 1990, the Register of Copyrights heading the U.S. delegation, sought a model law which could serve two purposes: first, a document that could be used by countries modernizing their national copyright laws and to which United States trade negotiators could point as embodying sound international practices; and, second, a document that could accommodate reasonable variances in national law reflecting different legal traditions. To the United States, the model law drafting exercise was not a harmonization effort, but rather a flexible set of provisions that provided balanced options and alternatives for the effective protection of copyright.

In the final analysis, however, drafting an internationally acceptable model copyright law proved no easier than adopting a comprehensive national copyright law. In terms of subject matter and exclusive rights, the model law drafts appear generally compatible with U.S. law as well as that of a large number of other industrialized states: highly inclusive subject matter criteria and broadly stated exclusive rights.

In a number of areas, the draft model law went farther than the United States was prepared to go: in subjecting virtually the entire area of library and archival reproduction and distribution of copies of works to a requirement of equitable remuneration; in calling for commercial lending rights for many classes of protected works; in calling for adoption of the public lending right; and, by establishing mandatory remuneration for the private copying of many classes of works.

In other areas, the draft did not go far enough: in not tying computer programs clearly to the category of literary works; in respect of data base protectability; in connection with the potential protection of sound recordings as copyrightable works of authorship; and, in dealing with authorship and ownership of copyright of works made in the course of an employment relationship.

The model law seemed insensitive to the ways in which countries, like the United States, dealt with other issues: the formal requirements for concluding authors' contracts, how such contracts should be construed in cases of disagreements among the parties and how moral rights may be exercised or waived.

Without any doubt, the issue which consumed the greatest amount of time and generated the most disagreement was the appropriateness of copyright protection for sound recordings. It is taken for granted in the United States that the creativity involved in mixing and fixing recorded sounds in the studio is the kind of authorship which copyright is intended to encourage and protect. A large number of other countries also protect sound recordings under the general framework of copyright and a smaller, but not insignificant number of such countries—including the United States—use the Berne Convention as a point of attachment for the protection of foreign sound recordings.

Coexisting with copyright-based systems for sound recording protection are the so-called neighboring rights systems. The protection of sound recordings under neighboring rights is internationally regulated by the 1961 Rome Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations. And, as the title of the Rome Convention implies, the protection of sound recordings is part and

parcel of the protection of other interests. What these interests all have in common under the neighboring rights philosophy is that they are dependent upon authors' works, secondary to authors' works and represent interests more industrial than cultural.

Resistance to the inclusion of sound recordings among the list of copyrightable subject matter ran high at last year's meeting of the Committee. At the Third Session in 1990, however, proposals to include sound recordings as optional subject matter received wider support and the issue was being viewed in terms of accommodating Common Law and Continental legal systems within the Berne Union. Although it remains an issue upon which there is deep policy division, it is difficult to see how the model law—in the final reckoning—can avoid the inclusion of sound recordings as potentially copyrightable subject matter, a least as an option open to states.

The Register discussed provisions of the W.I.P.O. Model Copyright Law during a speech to the American Bar Association Copyright Committee in Los Angeles on August 7.

### Bilateral Initiatives

Over the last five years, many of the most significant practical improvements in copyright protection for U.S. works abroad have been secured through bilateral arrangements. Establishing copyright relations with many of the states of the Pacific Basin, where piracy has long flourished, was achieved largely through bilateral negotiations—even in cases where the state concerned ultimately adhered to a multilateral convention.

The visibility of multilateral initiatives in the W.I.P.O. and the G.A.T.T. in 1990 should not obscure important and exciting developments on the bilateral front. In particular, the reorganization of the political and economic systems of Eastern Europe have had consequences for copyright.

In Poland, Czechoslovakia, Hungary and Bulgaria, revision of the national copyright laws has been initiated or completed. Policy Planning Advisors Flacks and Eric Schwartz represented the Copyright Office in preliminary work toward bilateral agreements with these Eastern European countries. In each of these states, and in the Soviet Union, negotiations of bilateral trade and investment agreements with the United States provided an opportunity to secure commitments to the strengthening of local intellectual property regimes.

### U.S.-U.S.S.R. Summit Copyright Accord

President Bush and Soviet President Mikhail Gorbachev signed a trade agreement containing important copyright provisions on June 1, 1990, at the Washington, D.C., Summit.

The Office of the U.S. Trade Representative asked the Register of Copyrights and the Copyright Office to participate in the talks leading to the agreement. Policy Planning Advisor Schwartz represented the Register in Vienna, Moscow, and Paris during March and April as part of the official U.S. trade delegation in talks on a U.S.-U.S.S.R. trade agreement in preparation for the June summit. The Copyright Office played an important role in negotiating the copyright provisions in the resulting 1990 trade agreement. A key objective of these discussions was improvement of copyright protection in the Soviet Union.

Contained in the body of the agreement were these provisions:

(1) The U.S. and the U.S.S.R. reaffirmed their existing obligations in copyright matters, i.e., membership in the Universal Copyright Convention. Also, the parties agreed to an exchange of dialogue and to encourage protection for intellectual property.

(2) The Soviet Union agreed to join the Berne Convention.

(3) The Soviet Union agreed to protect computer programs in the same manner as it protects

literary works under copyright.

(4) The Soviet Union agreed to protect sound recordings.

In side letters, the two nations made further agreements:

(1) The Soviet Union agreed to limitations on the uses of computer programs similar to those provided for in Section 117 of the U.S. Copyright Act of 1976.

(2) The Soviet Union agreed to examine the possibility of joining the Geneva Phonograms Convention.

(3) The Soviet Union agreed to a 1991 timetable for introducing all the draft laws necessary to carry out the above obligations and also agreed to take all possible measures to enact these changes in their laws during 1991.

Unfortunately, the long-awaited comprehensive revision of the Soviet national copyright law, laying a basis for adherence to the 1971 Paris Act of the Universal Copyright Convention and entry into the Berne Union has stalled.

In addition to bilateral negotiations with Eastern European states, the Copyright Office assisted the Office of the U.S. Trade Representative and Departments of State and Commerce in bilateral copyright talks with the Governments of Turkey, Egypt, Taiwan, and Mexico. Policy Planning Advisors Marybeth Peters, Schwartz, William Patry, and Marilyn Kretsinger assisted in these negotiations.

One of the most important bilateral consultations in which the Copyright Office was involved concerned the preparation by the Commission of the European Communities of a Directive on the Protection of Computer Programs. Few legislative initiatives have attracted as much controversy over the last year as has the European Community software directive.

The present draft of the European Community software directive firmly links program protection to the protection of literary works under copyright. It reflects the fundamental exclusive rights which literary works enjoy under the Berne Convention. The bulk of the controversy has concerned exceptions to protection, in particular the extent to which unauthorized decompilation of computer programs will be allowed, for what objectives and to what extent the results of decompilation may be lawfully utilized in commercial contexts.

The decompilation issue has highlighted the jurisprudential differences between the United States, which relies on the general doctrine of "fair use" to regulate matters such as decompilation and the Continent, which finds analogous doctrines such as "fair dealing" too narrow to address the equities involved in decompilation with any success. These and other issues were addressed by a U.S. delegation to Brussels in December 1989 upon which Policy Planning Advisor Patry—author of a book on the subject of fair use—served as an advisor.

### People's Republic of China Copyright Law

The People's Republic of China adopted its first copyright law on September 7, 1990. Nearly 11 years in the making, the law becomes effective on June 1, 1991.

Although the law appears to be a modern copyright law, offering terms of protection for life plus 50 years and covering the general categories of subject matter, including computer software, it also appears to contain overly broad limitations on authors' exclusive rights. The law seems somewhat vague and provides much latitude through implementing regulations. The United States is seeking clarification on the breadth of these exemptions to the law. Questions exist as to whether the law is compatible with either the Berne Convention or the Universal Copyright Convention. Despite its adoption of the law, it is possible that China could adhere to the Berne Convention and apply that Convention directly to foreign authors.

Most significantly, for the first time the People's Republic of China will protect works copyrighted

in the United States and this country will protect works copyrighted in China.

**The International Copyright Institute**

Another consequence of U.S. adherence to the Berne Convention has been the reinvigoration of the relationship between the W.I.P.O. and the Copyright Office in the field of development cooperation. For many years, U.S. participation in the W.I.P.O. training programs for copyright was minimal and consisted mainly of occasional visits by copyright officials from developing countries to the Copyright Office, through the auspices of the W.I.P.O. But, as Dr. Arpad Bogsch, the Director-General of the W.I.P.O. observed:

> The participation for the first time of representatives of the United States in the 1989 session of the Executive Committee of the Berne Union and, then in the series of meetings on the W.I.P.O. Model Law on Copyright in 1989 and 1990—not simply in observer status but as members of the delegation of a country party to the Berne Convention—was the opening of a new era not only in the cooperation between W.I.P.O. and the U.S. Copyright Office but, in a way, also in the history of the Berne Convention.

The Register made the strengthening of U.S. copyright development cooperation a major goal of the Copyright Office. Many countries, with far less at stake in the international copyright system than the United States, have long provided substantial development assistance to developing countries. With the support of Congress, including Representative Robert W. Kastenmeier, Chairman of the Subcommittee on Courts, Intellectual Property and the Administration of Justice, the International Copyright Institute was created two years ago as a specific program item in the Copyright Office budget.

The Institute built its programs slowly and carefully, beginning with individual internships for copyright officials from developing countries to the major innovations of 1990: the first joint W.I.P.O.-Copyright Office international copyright training symposium, held at the Library of Congress in April and May 1990, and the first United States copyright training symposium conducted entirely in a foreign language--for Francophone developing countries—in September 1990.

During the April and May symposium the Register, Assistant Register Anthony P. Harrison, the General Counsel, and Policy Planning Advisors Flacks, Patry, and Schwartz served as co-chairpersons. Topics covered many aspects of copyright, including the role of copyright in international development; copyright issues relating to publishing, music, and telecommunications; and the collective administration of copyright.

The 19 seminar participants and speakers were all high-level copyright officials in Austria, Brazil, the People's Republic of China, Nigeria, Peru, Argentina, Ghana, Haiti, India, Indonesia, Jamaica, Kenya, the Republic of Korea, Malawi, Mexico, Senegal, and Uganda.

Representing the W.I.P.O. were Mihaly Ficsor, Director of the Copyright Law Division, and Carlos Fernandez-Ballesteros, Director, Developing Countries, Copyright and Public Information Department.

The structure of the training symposia was innovative, involving presentations on contemporary issues of importance in copyright, critique and cross-discussion by reactor panels of private and governmental experts and a full discussion involving the trainees. At both symposia, papers were discussed dealing with the role of copyright protection in international development, contemporary copyright problems in publishing, telecommunications and music industries, and the collective administration of rights under copyright.

Of particular interest was the French language training symposium. The participants included seven directors of the organizations that collect

copyright royalties in their countries, as well as one deputy director. The representatives of the other three countries were high copyright officials. All expressed gratitude for the consideration shown by holding the conference in their countries' official language. Men and women from the following countries participated: Algeria, Benin, Burkina Faso, Burundi, the Congo, the Ivory Coast, Guinea, Mali, Morocco, Niger, and Zaire. The participants said that the conference was especially beneficial because it exposed them to the U.S. copyright system with which they had little familiarity.

Speakers from the United States included the Librarian of Congress, who discussed his idea of the Library in the 21st Century, the Register, and speakers from the W.I.P.O., the legal community, the international copyright community, and from copyright-related industries.

With assistance from other staff members, Policy Planning Advisor Peters organized this event which was held for officials of 11 French-speaking African nations. The organizer for the W.I.P.O. was Fernandez-Ballesteros.

The success of the French language training symposium and the experience gained in conducting a U.S. symposium in a language other than English will be put to use in the next year, when a similarly structured symposium will be held for Latin America and the Caribbean.

Also part of the training offered by the Copyright Office is the Advanced Copyright Law Seminar. The sessions are a cooperative effort between the Copyright Office and the Franklin Pierce Law Center in Concord, New Hampshire. The seminar was organized into two sessions, and the interns were representatives of the Pacific Basin, Eastern Europe, and Latin America. Each intern was provided an individualized training schedule, consisting of tours and conferences in various Copyright Office divisions. Each intern will write a legal memorandum in an area of his or her special interest.

Fiscal Year 1990 saw the retirement of Assistant Register Anthony P. Harrison, who bore the principal responsibility for organizing and launching the programs of the International Copyright Institute over the last two years.

### International Registry for Audiovisual Works

At the beginning of this year, a new international treaty was concluded with the aim of facilitating proof of ownership of rights in audiovisual works across national boundaries. Such a simplification of proof should benefit film and television producers in a number of important contexts, including the fight against film and video piracy.

The Treaty on an International Registry for Audiovisual Works established a relatively simple and cost-effective means for rightsholders to record transfers of ownership and exclusive licenses in their audiovisual works. The statements contained in such recordations will be regarded as true in adhering countries, until the contrary is proven in a judicial proceeding.

Policy Planning Advisor Peters played a particularly important and continuous role in the development of this innovative treaty and was detailed to the W.I.P.O. headquarters in Geneva to work with the Director General of that organization in establishing the infrastructure and administrative procedures for the new registry.

The treaty has not yet come into force, although steps toward adherence have been taken in a number of European countries. The President has sent the treaty to the Senate for its advice and consent, where it has encountered serious opposition from several major American motion picture companies.

## LIBRARY OF CONGRESS TRANSITION ACTIVITIES

The Copyright Office implemented as many of its goals under the Library of Congress Transition as possible. Each division, in consultation with

staff members, implemented a number of its recommendations; work continues on the other goals. Unavailable funding has presented delays in the realization of some of the Transition objectives.

To deal with an increasing workload that sometimes arrives in unpredictable surges, the Office created SWAT teams of staff members who assisted in backlogged areas.

The Office has investigated the feasibility of accepting electronic funds transfers from remitters. Although the Library is not yet set up for this type of transfer, the Copyright Office is cooperating with the Disbursing Office in setting up electronic transfer of fiscal reports to the U.S. Treasury, and is pursuing the possibility of installing a pilot project in the Licensing Division for electronic transfer of the $200,000,000 collected annually from the cable television industry. The Office hopes to learn valuable lessons from the Licensing study.

A diverse working group investigated alternative methods of attaching registration numbers to the various shapes and sizes of materials that are registered. The group published a Request for Information to elicit potential vendors of automated equipment to reproduce a label containing a given bar code. Of the nine companies which responded, eight had machines that did not seem able to perform the needed tasks, and the ninth had a machine that was far too slow and costly for the high volume of work in the Office. Ideally, a solution will be found with computer-generated numbering and certificate production.

The Office arranged for several large remitters of documents to submit their multi-title documents on computer disks. This will spare some of the hours expended in the Documents Unit laboriously keystroking hundreds of titles into the COPICS system.

The Office explored the idea of collaborating with private companies to create an optical disk format for the more than 45,000,000 cards in the Copyright Card Catalog.

On October 1, 1989, the Acquisitions Section of the Deposits and Acquisitions Division became the Copyright Acquisitions Division in the Acquisitions Directorate of Collections Services of the Library of Congress. Although the Copyright Office provides funding for the new division, the Chief reports to the Associate Librarian for Collections Services. The Compliance Records Section of the former division became a unit in the Serials Section of the Copyright Cataloging Division.

During the fiscal year, the Register's Labor-Management Satellite Group was created to improve communication and to resolve work-related problems in the Office of the Register. The group, using consultative management methods, met regularly and made many recommendations.

## COPYRIGHT OFFICE OPERATIONS

### Fee Increase

On July 3, 1990, President Bush signed into law the Copyright Fees and Technical Amendments Act (Pub. L. 101-318).

The new law doubles most fees for Copyright Office services effective January 3, 1991. This act marks the first adjustment of the fee schedule since January 1, 1978. The Register of Copyrights had described to Congressional committees how the Copyright Office fee structure has not kept pace with inflation.

Future adjustments to Copyright Office fees will not require legislation. In calendar year 1995 and in each fifth calendar year thereafter, the Register is given authority to increase fees by the percent change in the annual average, for the preceding calendar year, of the Consumer Price Index published by the Bureau of Labor Statistics, over the annual average of the Consumer Price Index for the fifth calendar year preceding the calendar year in which such increase is authorized.

A Fee Increase Task Force headed by Associate Register of Copyrights Michael Pew oversaw planning for the implementation of the fee increase.

### National Film Preservation Act Activities

The Copyright Office assisted the Librarian of Congress in implementating the National Film Preservation Act. The Office helped to draft the proposed and final film labeling guidelines in accordance with the Administrative Procedures Act.

Policy Planning Advisor Schwartz, designated by the Librarian as Counsel to the National Film Preservation Board, acted as an advisor on the labeling guidelines, answered public inquiries, and helped obtain archival copies of the designated films. Schwartz also assisted members of the House Subcommittee on Courts, Intellectual Property and the Administration of Justice when the Subcommittee held a January field hearing in Los Angeles on moral rights in motion pictures.

The Office also assisted in the preparation of the Fiscal Year 1990 report to Congress for the Library on its activities under the National Film Preservation Act.

### Copyright Automation

Realizing how technology can boost productivity, the Copyright Office during the past few years intensified its search for automated assistance to help a shrinking staff deal with growing workloads.

For the Copyright Automation Group, 1990 was a year of advancement toward a goal of adapting technology to the needs of the Copyright Office. The Office added more and improved automation; examples were the new system in the Licensing Division and the Exception Tracking System. Neither is in operation at the end of Fiscal Year 1990, but both are multi-year projects which promise many benefits.

Perhaps the most significant and far-reaching contribution that the Group made this year was participating in the analysis of the resystemization of the Library's largest computer system. The requirements of the Copyright Office, i.e., replacing the COINS, COPICS, and SCORPIO systems, were not selected for the first development project, but they remain an integral part of the new system model that resulted from the analysis phase.

Certainly the most time-consuming project was recovering deposit account data from the COINS data base. With the assistance of staff members of the Receiving and Processing Division, the Automation Group reprocessed the transactions and reconstructed and verified the balances.

Another important contribution was the Group's work with Information Technology Services (ITS) in planning a new system for the Licensing Division that will provide improved recording and availability of jukebox license and cable television statement of account information for the staff and the public. Installation is expected during the spring of 1991.

During Fiscal Year 1990 ITS began development of the Exception Tracking System (ETS). ETS will replace the correspondence management system (CMS) of the COINS system. ETS will track cases that require communication with remitters, and perform that function, which is so vital to the Examining Division and to the Receiving and Processing Division, more efficiently than CMS. The Group reviewed the ETS system requirements, developed on-line HELP screens with assistance from the Examining Division and the Receiving and Processing Division, and is now testing the programs.

The Group participated in the successful ROLLUP pilot project, which gave access to some Library of Congress and Copyright Office files to 14 of the nation's public, state, university, and federal libraries.

This year, the Catalog Distribution Service began selling the Copyright Office data base on magnetic tape. The information, retroactive to 1978, costs $50,000; the annual subscription costs $30,000. DIALOG Information Services Inc., has purchased a subscription, and will make the information available on its international network, giving worldwide access to Copyright Office records.

The Group accomplished several other objectives this year. Besides providing daily support for users of more than 475 computer work stations throughout the Office, the four computer systems analysts continued to study possible use of optical storage technology; installed additional work stations in the Deposit Copies Storage Unit; replaced 30 old Data General terminals; and provided technical assistance for users of the new PC-TARE time and attendance reporting system.

**Cataloging Division**

Cataloging Division receipts for 1990 reflected the generally increasing receipts of the Copyright Office. Total receipts for the year were, including recordation requests for documents pertaining to copyright and renewal applications, a record-breaking 666,254. This compares with receipts of 625,727 during the previous fiscal year. Fiscal difficulties prevented filling an additional 12 positions allocated to the division in the Fiscal Year 1990 budget. Although the vacancy rate hovered near ten percent for most of the year, staff morale remained high. The number of volunteers who assisted in the work areas with the heaviest backlogs, the Documents Unit and the Compliance Record Unit, was remarkable.

Clearances during the year were 623,767 which represented a slight decrease from the record-high figure of 631,807 reported during Fiscal Year 1989.

During the year, the Deposit Copies Storage Unit at Landover, Md., developed a crisis backlog because of staff shortages.In response, Catalogers began boxing certain categories of deposits destined for Landover, reducing the need for presorting and boxing these materials at the Landover site.

In late October, the Compliance Records Section of the Deposits and Acquisitions Division was transferred to the Cataloging Division as part of the Library's reorganization. The section became a unit of Cataloging's Serials Section. At the time of the transfer, two of the four full-time positions were vacant. One of the most difficult problems facing the new unit was a huge backlog of uncataloged monographs. As a first step in dealingwith the backlog, Serials Section managers carefully reviewed cataloging practices. Changes aimed at work simplification were adopted.

No vacancies in the unit were filled because of the budgetary constraints. Volunteers were asked to deal with the growing monograph backlog. From November 27 through the end of the fiscal year, more than 12,000 monographs, approximately 250 phonorecords, and 140 motion pictures were cataloged by volunteers. During the fiscal year, the unit recorded a total of 306,474 serials and newspapers.

The Copyright Office Publication and Interactive Cataloging System (COPICS), the mainframe system on which the division creates records for all Section 408 deposits and applications received, continued to meet the production needs of the division in spite of its age. An increasing reliance on PC-based processing in the Documents Unit has increased productivity. Division staff participated in the design of the Copyright Office resystemization option, and while this option was not selected, the division continued to look forward to a next generation COPICS.

Editing was completed on four parts of the *Catalog of Copyright Entries*; however, none was published because of budgetary cutbacks.

Self-revision, a process which allows Senior Catalogers to assume responsibility for the entire record creation process, gained wider acceptance in the division and is expected to become part of the division's procedures. The division continued to streamline the information included in the copyright record. Users, both in the Library of Congress and in the copyright community, were consulted to prevent omission of necessary information. The Library Resystemization Project explored some record sharing options within the Library, but unfortunately, implementing these options does not appear imminent. At the end of year a committee began studying the many suggestions received

this year for changes in division organization, workflow, rule standardization, and further simplification.

The division's Labor-Management Satellite Group has worked for several years to construct a new performance appraisal system for senior Cataloging Division staff. After a six-month experimental period, the Group concluded that the proposed framework was a viable basis for changes in procedures and position descriptions.

**Examining Division**

For the past decade, the Examining Division reported that its workload grew while the number of staff members remained static. As the workload increased, outdated practices were recast and computer technology was enlisted. But applications continued to pour in. Last year registrations climbed to 642,604, a 6 percent increase. Despite extraordinary efforts by many members of the division, the ability to process and examine this growing workload as carefully and as expeditiously as before now appears at risk.

When fully staffed, the Visual Arts Section has eight Examiners and six Technicians. Never during the fiscal year was the section fully staffed. During 1990 the Section received 76,718 applications for works of the visual arts, compared with 66,285 the year before. At section meetings, the staff "brainstormed" for solutions. Several suggestions were forwarded to the division office and adopted, resulting in a reduction of correspondence with remitters.

The Mask Works Unit, with a Supervisory Copyright Examiner and an Examiner from the Visual Arts Section working part time, registered 998 claims, compared with 1,229 during 1989. The Copyright Office is considering a proposed amendment to the regulations on mask work registration that would allow captive merchants to register separately the mask works for the base layers and custom layers of an original gate array chip. No unfavorable comments were received after a request for comments on the proposal was published in 1989.

Despite registering 37,527 sound recordings and 185,315 other works of the performing arts with fewer staff members than the year before, the Performing Arts Section managed to cope and ended with a productive year. At the beginning of the year the Section had 11,763 claims on hand, and approximately 10,000 as the fiscal year ended. Several Examiners were detailed to other service units of the Library, and several transferred elsewhere in the Library. As in other sections, replacing those who departed proved difficult; as a result, the Performing Arts Section hired no new permanent employees this year. A task group was formed to revise and update the practices and procedures of the section and made much progress. An Examiner devised a comprehensive subject index for the personal computers which proved an invaluable everyday tool.

Changing to a two-team system in the Motion Picture Unit of the section strengthened the examination process, as did a new set of guide letters. An Examiner in the Unit, Jan Lauridsen, was selected as the sole Copyright Office 1990-1991 representative in the Library of Congress Intern Program.

The Correspondence Unit was seriously understaffed all year. Staff from other sections of the Examining Division and from the Information and Reference Division pitched in to help with Correspondence Management System duties and with unfinished business envelope completions.

The Literary Section began the fiscal year with 57 employees and ended with 53. The section registered 291,210 monographs, machine-readable works, and serials—approximately 3,000 more than during 1989. Yet they managed to remain fairly current in work on hand for almost six months, despite vacancies that were left unfilled because of budget constraints.

Several new streamlining ideas improved the workflow. Two of them were adopting a new system for handling referrals that more fully utilizes Section Secretaries and allowing Correspon-

dence Clerks to initial correspondence; both changes saved time and speeded up the workflow.

A new form, Short Form SE, was introduced this year. Group registration of serials will be possible beginning in January 1991. Training sessions were held for Team Leaders on screen display claims, for the entire Literary Section staff on blank form guidelines, and on FAX training.

In the Renewals Section the number of applications rose to 51,834. Workflow procedures were amended to cope with the increase. By slightly altering the policy of strict chronological handling of claims, the section was able to work off its backlog by July 16, as opposed to September 1 last year. A task group formalized and simplified the provisions governing photocopying of applications in the section by members of the public.

The division again faced substantive issues that required thoughtful and creative solutions.

A choreography study was completed, and a task group met monthly to discuss issues, view claims, and develop a set of practices for handling exercise programs and other unusual and problematic choreography claims. Compendium II states that a registrable choreographic work is one that contains "at least a certain minimum amount of copyrightable matter in the form of dance steps or other movements in a coherent compositional arrangement." The division determined that exercise routines generally do not contain choreographic authorship that can be protected by copyright. There may be protectible authorship in selecting and ordering the exercises and other physical movements into an exercise program. Where substantial authorship of this type is present, registration will be made on that basis. For other works involving ordinary physical movements, social dances or folk dances, the division will consider the claim on a case-by-case basis to determine whether sufficient choreography or selection and ordering authorship is present.

In light of recent court decisions the division is considering registration of claims to copyright in aspects of costume designs. During the past several years, some registrations were made for certain aspects of costumes, notably fanciful animal shapes. Courts in the Second Circuit have struck down some of the registrations, based on their interpretation of Copyright Office practice and prevailing law. Following the *Whimsicality v. Rubie's Costume Co., Inc.*, 891 F.2d 452 (2d Cir. 1989) decision, the General Counsel and representatives of the Examining Division met with industry members to elicit their comments on the question of copyrightability of costumes. Claims involving costumes are being held pending a policy decision.

The Chief, Assistant Chief, the Performing Arts Section Head, the Visual Arts Section Head, and the Motion Picture Team Leaders all contributed to discussions and letters of explanation regarding applicability of Examining Division practices in the "Breakout" videogame case, *Atari Games Corp. v. Oman*, 888 F.2d 878 (D.C. Cir. 1989). In a recent development, the plaintiff filed a supplementary complaint, which the Copyright Office is answering.

Applications for computer programs and related works continue to increase; in May, the Literary Section issued revised practices and guide letters to reflect changes that had taken place during the last few years. The section receives many claims in screen displays, and is applying the policies and practices developed during the past two years. All copyrightable expression embodied in a computer program owned by the same claimant, including computer screen displays, must be registered on a single form. Claims in screen displays are examined according to traditional standards of copyrightability. Team Leaders were trained this year to handle screen displays in order to expand the base of expertise for these claims, which often present difficult problems. Expanding this training to Senior Examiners next year is anticipated.

Many applications were received for spreadsheets and reports that can be created using commercially successful programs tailored to a par-

ticular user's needs. Examiners must determine the scope of the claim and discern whether there is any copyrightable programming authorship; it is not unusual for these works to contain what appear to be screen displays. In *Lotus Development Corporation v. Paperback Software International and Stephenson Software, Ltd.* D.C.C.A. 87-76-K, (D. Mass., June 28, 1990), the court concluded that the copyright in the Lotus 1-2-3 spreadsheet program had been infringed, a ruling that has generally been interpreted as broadening copyright protection for computer programs. Some view the Lotus victory as a triumph for "look and feel" protection; others point out that the case merely confirmed that copyright law protects an entire product against direct, unauthorized copying. The decision is on appeal; the division does not now contemplate expanding its policy or practices based on the district court decision.

In March 1989, the Copyright Office adopted regulations permitting group registration for an automated data base and its updates or revisions. The data base and its revisions that are published or created within a three-month period in the same calendar year may be filed on a single Form TX, with a single deposit and fee. To qualify, all updates must be owned by the same claimant; all updates must have the same general title and be similar in organization and content. The Data Base Task Group in the Literary Section examined the applications thus far received. About 300 single registrations of data bases were made this year; that number is expected to decrease once applicants gain experience with group registration.

The 1988 policy decision on registration of digitized typefonts stated that although digitized data is not copyrightable, the computer programs that control the digitizing process may be registrable. The application for such a program must exclude any data that merely depict the typeface. This policy received some publicity after an article in *The New York Times*, followed by articles in the trade press, implied that the Copyright Office had registered a claim in a digitized typefont. All who inquired were told the Copyright Office policy: that no registration will be made for a typefont, analog or digital, and that each application for a program that controls the digitizing process must evidence original authorship apart from the digitized data and must contain a disclaimer for the typefont itself.

The Literary Section Heads continued to study the question of programmable array logic devices (PALs). Some applicants believe that the logic equations created by a programmer (which after a number of steps including running the equations through a compiler that translates them into binary code and results in a chip that is "programmed" or "characterized") are equal to source code and that the "work" is a computer program. Others contend that PALs and other logic arrays are merely hardware devices that perform functions, but do not do so under software control, so that no computer program is executed. In order to determine whether the deposit consists of hardware or software, applicants are asked whether the programmer has a number of ways to achieve the result. If the equations are computer programs, where are the instructions? If the equations are data bases or data sets, is there enough original authorship to be copyrightable? Is there room for originality? Several cases are pending.

The division discussed issues related to copyright protection for architectural works in anticipation of possible enactment of legislation adding a new category of works for copyright protection.

The Division Office continued meetings with an interdepartmental committee on computer files security in efforts to resolve deposit issues involving materials acquired by the Library.

**Information and Reference Division**

Dwindling resources, combined with increased public demands and workloads, presented challenges for the staff of the Information and Reference Division during the 1990 Fiscal Year. Severe budgetary cuts forced a Draconian reduction of

the printing budget and left positions vacant throughout the division. Fewer people struggled with greater workloads. When experienced staff members resigned, transferred, or were promoted, replacing them usually proved impossible.

The Reference and Bibliography Section, for example, personally assisted 8,410 members of the public—almost 23 percent more than last year. Helping patrons individually takes time away from producing search reports, yet the staff produced 11 percent more titles this year—a total of 185,322—than during Fiscal Year 1989. Three members of the section pored over printouts and reduced the outstanding weekly search requests from 1,958 to 964, thus logging more than $30,000 in additional fees.

Staff shortages in several units of the Records Management Section reached near-critical levels last year. The Deposit Copies Storage Unit experienced a backlog of nearly 125,000 deposits in November. Volunteers, work-study employees, and one 60-day detailee helped to battle the backlog, which was caused by fluctuations in the number of staff and a large increase in deposits arriving from the Cataloging Division. Automation became a force in fighting the backlog. Three more terminals recorded the location of deposits and cut paperwork. Despite having work and fewer people available to do it, the unit processed 324,050 deposits—about 16 percent more than the previous year.

Problems remained at the Landover site, and the division leadership looked to innovative ways to solve them. Two solutions were contracting with the Center for the Handicapped to help with boxing more than 6,000 feet of unfinished business files and cooperating with the Cataloging Division to box deposit copies after they are cataloged, thus saving sorting and boxing time.

Members of the public frequently ask for help to locate a specific copyright record book from among the hundreds of thousands stored in the Records Maintenance Unit. For 11 months this year, there was only one permanent staff member there to assist them and to file copyright applications. All six members of the Preservation Unit and both Secretaries in the Division Office volunteered throughout the fiscal year to assist patrons and file applications.

The members of the Preservation Unit were able to microfilm one complete year of copyright registrations, while assisting the short-staffed Records Maintenance Unit.

Budget cuts forced a reduction of more than $90,000 in the Copyright Office printing allowance. Division management, in consultation with the other divisions, carefully reviewed each Copyright Office publication. A few items were eliminated completely, and others were revised to save money. Restrictions were imposed on the number of application forms, circulars, and copyright information kits mailed upon request. The division ceased providing free copies of a reprint of the 1976 Copyright Act.

Increasing public interest in the copyright process produced 28,946 visitors, 149,271 inquiry letters, and 246,068 phone calls to the Public Information Office. Information Specialists greeted the visitors, assisted them with the copyright registration process, responded to the mail and answered phone questions. They also conducted tours of the Copyright Office for the public, and explained the technicalities of the copyright law at conventions, exhibits, libraries, and to other audiences. Meetings with representatives of the Inspector General's staff produced more security and better accountability for cash receipts in the Public Information Office. On August 25, a new Head, Stephen Soderberg, was named for the Information Section.

The workload in the Certifications and Documents Section increased. Search requests climbed to 2,573, up 20 percent over the previous year. The number of titles searched rose to 7,991, an increase of 73 percent. The staff ordered 60 percent more deposits—some 2,697—from the Deposit Copies Storage Unit. The most dramatic increase appeared in the number of certified search reports prepared—190 reports, 90 percent more than during 1989.

Such an increase in the workload without a corresponding increase in staff caused some unavoidable delays in response time.

The Information and Reference Division Satellite Group concluded another productive year. With the special needs of this division in mind, the group edited, with permission, a videotape suggesting solutions for dealing with disruptive members of the public. The group investigated staff work environment concerns, and sponsored a holiday clothing drive for homeless persons.

### Licensing Division

During fiscal year 1990, the Federal Communications Commission made a major change in syndex rules with important effects on cable television system operators and on statement of account forms examined by the Licensing Division. Copyright owner interests and phonorecord player operators concluded a voluntary licensing agreement. Key vacancies in the division were filled, and automation efforts and support to the Copyright Royalty Tribunal continued.

The mechanism of the cable compulsory license has become exceptionally complicated and controversial during its brief history. Last year alone, rule changes by the F.C.C. and regulatory action by the Copyright Royalty Tribunal (C.R.T.) further increased the need to conduct a more thorough analysis of the semiannual statement of account filings.

In January 1990, the F.C.C. reimposed syndicated exclusivity protection on cable television systems. These rules protect broadcasters by preventing cable systems from importing those programs into the marketplace which local broadcasters have purchased the exclusive rights to air. The C.R.T. ruled that the syndex surcharge will be maintained in cases where a VHF station places a predicted Grade-B contour around a cable system, in whole or part. The reimposed rules did not require exclusivity under this circumstance, thus enlarging a cable system's ability to carry programming to some degree.

The division revised the statement of account form for the first accounting period of 1990 to inform cable systems of these important changes and to prepare for implementation of the new rules. A revision for the next accounting period is underway. The division purchased computer software to revise the statement of account form, which has grown to 27 pages.

Licensing Examiners study statements of account very carefully. These forms represent about $200,000,000 in royalty payments collected for copyright owners. As the forms necessarily become more difficult to complete, the error rate rises. Examiners increasingly discover tidy overpayments of royalty fees as well as significant underpayments. This past year, the thorough examination process yielded $2,199,988.14 in additional fees. This amount is almost twice the division's full operating costs, thus the division was entirely self-supporting. Conversely, a more cursory examination of statement of account filings would have resulted in a loss of royalties of more than $2,000,000 for copyright owners.

The division was also involved in a somewhat different facet of compulsory licensing. The parties involved with the compulsory license for coin-operated phonorecord players (jukeboxes)—ASCAP, BMI and SESAC representing copyright owner interests, and the Amusement and Music Operators Association representing jukebox operators—came closer than ever in 1989 to reaching a voluntary agreement. The division provided the parties with information to assist in the negotiations, and continued to process applications for licenses. As the 1990 license year neared, an agreement was reached in principle, as provided under the Berne Convention Implementation Act of 1988.

Under Section 116 of the copyright law, license applications and fees must be remitted during January. The Copyright Office suspended licensing of jukeboxes for 1990 until the agreement became final. A public notice was prepared and mailed to all jukebox operators informing them of

the decision and of the agreement. An era of jukebox licensing in the Copyright Office came to an end when the agreement was signed on March 1, 1990. The voluntary licensing agreement provides for a term of January 1, 1990 through December 31, 1999. However, the division's work with the jukebox compulsory license continues. Applications for jukebox licenses for years before 1990 are still submitted. Searches are still requested, and the division issues search reports of the records for the years 1978 through 1989. The requirement for investment and management of funds deposited under the jukebox compulsory license remains. Since the division applies a portion of the royalty fees received under the jukebox compulsory license program to finance its implementation of the program, the fact that no monies were received for 1990 licenses meant that no funds were available to pay for staff time. This problem was solved by obtaining the necessary authorization to deduct 1990 and future operating expenses from funds received for 1989 licenses.

Work continued on developing the Licensing Division online system. This system, utilizing personal computers and a local area network connected to a microcomputer in the ITS office, will help track critical fiscal information and permit prompt reporting to the Copyright Royalty Tribunal. This reporting will help the Tribunal distribute funds to copyright owners.

The Licensing Division budgeted some purchases during the year to streamline operations and to prepare for the new online system. In areas where staff members depend on both typewriters and computer printers, typewriters were cost-effectively converted so that they could be used as either a typewriter or as a printer. Similarly, the purchase of spreadsheet software for the Fiscal Section rendered some relief to many of the time-consuming, manual tasks required for depositing of royalty remittances, issuing of timely reports, and tracking and management of investments. Control and management of these areas is vital considering that receipts to date of cable television royalties alone surpassed the $1 billion mark on March 1, 1990. Forms software was also procured this year which facilitates the preparation of simple forms for internal use.

The key positions of Head of the Fiscal Section and Licensing Specialist were filled during the year. A reorganization of the Accounting and Records Section into the Licensing Information Section and the Fiscal Section during 1989 led, in part, to creation of the vacancies. Increased responsibilities for the Licensing Information Section, such as cable television and satellite carrier interest collections and increased co-fiduciary responsibility requested by the C.R.T., made the reorganization necessary. The filling of the Licensing Specialist position enabled the division to begin revising publications rendered obsolete by rule changes made by the F.C.C., the Copyright Office, and the C.R.T. Staff members had rotated on voluntary details to provide critical support and information for the compulsory license public.

The division continued to provide assistance and support to the C.R.T. to aid in the distribution of royalty fees to copyright owners. Distribution of royalties during the year totaled $213,888,412.86 for cable royalties and $7,629,722.69 for jukebox royalties. The division prepared several reports for the C.R.T. this past year. One was the annual breakdown of cable royalty fees planned for distribution. Another one, the first supplemental report of cable royalties deposits, was quite involved and consumed much time.

### Receiving and Processing Division

Fiscal Year 1990 saw the Receiving and Processing Division produce record numbers of records and completed registrations. Despite the hardship of having 14 frozen vacancies in the division, this was the most productive year in the division's history.

Most of the year, despite many vacancies and the addition of some duties, the Incoming Mail

Unit and the Registered and Outgoing Mail Unit remained current. After a brief experiment with a private contractor to handle outgoing supply mail, it was determined that the Office mail room was still the most efficient way to handle this work. The mail room resumed the duty in March. A major loss to the section was the departure of its Head who assumed new duties within the division. In December, the Correspondence Control Unit lost its supervisor who transferred to another position within the division. Because of a lack of funding, both vacancies remained unfilled.

A new Head was named for the Fiscal Control Section in December and a new supervisor for the Data Preparation and Recording Unit was named in February. The section and the unit had somehow managed in the interim.

Management attacked the vacancy problem in the Data Preparation and Recording Unit by accepting assistance from the Section Clerks in the Materials Control Section and from Technicians and Correspondence Clerks in the Examining Division. Following an audit by the Inspector General, new procedures were developed for ensuring the security of cash deposits in this unit and in the mail room.

In anticipation of workflow problems which may result from the fee increase, the division formulated plans to make changes in the COINS system, to train the staff, and to clear a site for "short fee" correspondence. The division made other changes to handle "withheld remittances," motion pictures, and documents more efficiently as they move through the unit, and to define Senior Technician duties more clearly.

In the Accounting Unit, Fiscal Year 1990 was especially busy. For several months the employees dealt with an increased workload with only half the normal staff. The unit entered the new year still at half-strength. Despite vacancies, the unit made procedural advances. Use of the GAINS electronic transfer system to convey required fiscal data to the Treasury Department proved successful. Managers studied the advantages and disadvantages of implementing a credit card payment system.

The Materials Control Section also met the challenge of the mounting workloads. In addition to Congressional inquires, Librarian's requests, letter inquiries, and telephone searches, the section handled 2,320 requests for special handling, which are complex and time-consuming.

The Registration Processing and Certificate Production Unit also did more with fewer staff members. The unit benefited from the added speed and versatility of the new Pitney Bowes folder/inserter and from the experience of the new supervisor who took over in December.

### New Assistant General Counsel Named

Richard E. Glasgow, the Assistant General Counsel of the Copyright Office since 1977, retired on November 30, 1989, concluding a 36-year federal service career. Marilyn J. Kretsinger, a Policy Planning Advisor to the Register of Copyrights, became the new Assistant General Counsel on June 17, 1990.

## COPYRIGHT OFFICE REGULATIONS

### Deposit of Machine-Readable Copies

The Copyright Office published a public notice announcing adoption of final regulations for the deposit of certain machine-readable copies on October 16, 1989. The new regulations revoke the exemption from mandatory deposit of machine-readable copies and require the deposit of data and software published in IBM or Macintosh formats for the Library of Congress collections. Since the 1976 Copyright Act became effective, the Library has not exercised its authority to compel deposit of works published only in machine-readable formats. In order to provide acceptable public services for its Machine-Readable Collections Reading Room, the Library has determined that it is

necessary to implement a mandatory deposit policy.

### Cable Television

On September 18, 1989, the Office announced that the effective date of a broadcast station's significantly viewed status is the date that the Federal Communications Commission issues its determination that a particular station is significantly viewed. Such a station is to be considered significantly viewed for the entire accounting period in which the decision is made. The determination of significantly viewed status affects cable television systems filing statement of account forms under the cable compulsory license provisions of Section 111 of the Copyright Act.

On the same day, the Librarian announced that the Office would conduct an inquiry into the impact of cable system mergers and acquisitions on the computation of royalties under the cable compulsory license. Comments were received and reviewed, but no final conclusion has been reached.

On April 4, 1990, the Office notified the public that it was implementing the second phase of a three-part process for determining the specialty station status of television broadcast stations. First, on September 18, 1989, the Office invited all interested television broadcast stations claiming to qualify as specialty stations under the former distant signal carriage rules of the F.C.C. to submit to the Office sworn affidavits stating that in the preceding calendar year the programming of their stations satisfied the F.C.C.'s former requirements for specialty station status. Then, the Office published a list of the stations that filed affidavits and solicited comments as to whether any station on the preliminary list failed to qualify as a specialty station. Finally, the Office listed the stations accorded specialty status.

Following the Copyright Royalty Tribunal's July 18, 1990, decision adjusting the syndicated exclusivity surcharge, the Office considered changes and problems that might arise. In August, the Licensing Division notified cable systems about the fee elimination so that system operators would be aware of the changes.

## LEGISLATIVE DEVELOPMENTS

### Architectural Works

On February 7, 1990, Rep. Robert Kastenmeier introduced a pair of bills to amend the Copyright Act to protect architectural works. H.R. 3990 would protect "the design of a building or other three-dimensional structure, as embodied in that building or structure." Exemptions would be provided for two-dimensional reproductions of architectural works located in public places, and for owners of buildings to make certain alterations. A companion bill, H.R. 3991, would amend the current definition of useful articles to exclude "one-of-a-kind buildings and other three-dimensional structures that possess... unique artistic character."

On March 14, 1990, the Register testified on the two bills before the House Subcommittee on Courts, Intellectual Property and the Administration of Justice.

### Computer Software Rental

Three bills were introduced, modeled on the Record Rental Act of 1984, which would amend the "first sale" doctrine in Section 109 of the Copyright Act to prevent the rental, lease, or lending of computer programs without the authorization of the copyright owner. Rep. Mike Synar introduced H.R. 2740, the "Computer Software Rental Amendments Act of 1990," which would exempt home videogames from the rental right. This legislation was amended as part of H.R. 5498, the "Copyright Amendments Act of 1990," and was reported favorably by the House Judiciary Committee on September 18, 1990. Rep. Joe Barton introduced H.R. 5297, which would give the rental right to the

owners of home videogames for a one-year period from the date of the first commercial retail sale.

On July 30, 1990, the Register testified before the House Subcommittee on Courts, Intellectual Property and the Administration of Justice in general support of a software rental right. He suggested, however, that the Office might study whether there has been harm to software copyright holders from program lending, and he also cautioned that the effect of the legislation was potentially overbroad.

The Register testified on March 7, 1990, before the same Subcommittee at an oversight hearing on protection of computer programs and before the House Subcommittee on Science, Research and Technology on April 26, 1990, on technology transfer and the restrictions on copyrighting computer programs created by federal employees.

**Digital Audio Tape**

Advancements in taping technology have intensified the dilemma over unrestricted home taping of copyrighted music. In July 1989, the recording and consumer electronics industries reached an accord over the manufacture of digital audio tape recorders. Two bills, H.R. 4096 and S. 2358, introduced by Rep. Henry Waxman and Sen. Dennis DeConcini, respectively, would implement the industry agreement, and require recorders to contain the serial copy management system (SCMS). This system would permit making first generation digital copies of music from compact discs, prerecorded DAT cassettes, and digital broadcasts. It would not permit making second generation digital copies of copies. The SCMS would permit up to two generations of digital copies to be made of music recorded from analog sources, but third generation copies could not be made.

The Register testified on June 13, 1990, before the Senate Subcommittee on Communications in support of a comprehensive solution for home audio taping, which would incorporate a technological solution and a royalty element.

**Design Protection**

On October 19, 1989, Rep. Kastenmeier and Rep. Carlos Moorhead introduced H.R. 3499, which would provide for a ten year term of *sui generis* protection for original industrial designs of useful articles that are not commonplace, determined solely by utilitarian function, or wearing apparel that is composed of three-dimensional features of shape and surface. The bill mirrors design proposals introduced by Reps. Carlos Moorhead (H.R. 902) and Richard Gephardt (H.R. 3017) earlier in the session.

The Register testified on September 27, 1990, before the House Subcommittee on Courts, Intellectual Property and the Administration of Justice in general support of protection of ornamental design, provided it is achieved in a well-crafted law. Most U.S. trading partners, he said, offer more protection for ornamental designs than this country, but design legislation is extremely difficult to draft because of the limited range of creative variations possible with useful articles.

Representatives from the Copyright Office did not testify at the May 3, 1990, House hearing.

**Dispute Settlement**

Subcommittee Chairman Kastenmeier introduced H.R. 4366, which would amend the presidential proclamation provision in Section 104 of the Copyright Act to create a dispute settlement procedure for bilateral copyright and mask work agreements between the United States and other countries. The lack of a system for resolving disputes between countries has long been a problem in the international intellectual property sphere.

**Fair Use**

Following several Second Circuit decisions which intimated that there can never be fair use of an unpublished work, Rep. Robert Kastenmeier and Sen. Paul Simon introduced, respectively, H.R.

4263 and S. 2370, to clarify that the fair use provision of Section 107 of the Copyright Act applies equally to published and unpublished works.

Testifying on July 11 before a joint hearing of the Senate Subcommittee on Patents, Copyright and Trademarks and the House Subcommittee on Courts, Intellectual Property and the Administration of Justice, Policy Planning Advisor Patry stated that the Copyright Office could support appropriately drafted legislation, if it was determined that a legislative solution was preferable to continued case law development.

### Motion Picture Protection

Sen. Herb Kohl and Rep. Howard Berman introduced bills (S.2441 and H.R. 3568) that would amend Section 106 of the Copyright Act to give motion picture owners the exclusive right to protect their films from reproduction through a process or treatment which prevents or inhibits copying. A person importing, making, selling, or distributing motion picture facsimile reproduction equipment would be an infringer.

The Register testified on October 24, 1989, before the Senate Subcommittee on Patents, Copyrights and Trademarks on the general question of moral rights as applied to motion pictures. He had testified on October 18, 1989, before the House Subcommittee on Courts, Intellectual Property and the Administration of Justice on moral rights for visual artists.

## OTHER LEGISLATIVE ACTIVITIES

On May 2, 1990, Rep. Tom Campbell introduced H.R. 4710, which would, on a *prima facie* showing of infringement of a patent, copyright, trademark, or mask work, permit the exclusion of the infringing articles during the course of any unfair import trade practice investigation.

On September 12, 1990, Sen. Christopher Dodd introduced S. 3038, to extend for 25 years the existing copyright period for works subject to compulsory licensing. Following the expiration of the original term, the royalty payment would be paid into a trust fund for the National Endowment for the Arts.

Rep. Robert Kastenmeier introduced an omnibus bill, the "Copyright Amendments Act of 1990," H.R. 5498, which would amend various provisions of the Copyright Act relating to computer software rental, fair use, and architectural works. The bill was subsequently amended to include provisions related to software rental, architectural works, and visual artists' rights. In the latter form, the legislation was reported favorably by the House Judiciary Committee on September 18, 1990. A Senate version, S. 198, which incorporated the provisions of the later version of H.R. 5498, was passed in lieu of the House version on September 27, 1990.

The House disagreed on Senate amendments to H.R. 3045, the "Copyright Remedy Clarification Act," which would amend the Copyright Act to clarify that states, their instrumentalities, and their officers and employees acting in an official capacity are subject to suit in federal court for copyright and mask work infringement. The House asked for a conference with the Senate.

The Register testified on April 5, 1990, on legislation requiring the award of reasonable attorney's fees to small businesses or individual authors prevailing in copyright infringement actions and on another bill which would permit, under certain conditions, the public performance of works by using videocassettes in hospitals and related facilities.

On July 3, 1990, President Bush signed into law the "Copyright Fees and Technical Amendments Act of 1989." (Pub. L. 101-318). See the discussion of this Act earlier in the report. That day, he also signed into law the Copyright Royalty Tribunal Reform and Miscellaneous Pay Act. (Pub. L. 101-319). The law reduces the number of Commissioners of the Copyright Royalty Tribunal from five to three, and changes the salary classification rates for the Register of Copyrights, Associate Registers

of Copyrights, members of the Copyright Royalty Tribunal, and certain other Government officials. The salary classification rate for the Register is changed to level IV of the Executive Schedule.

## JUDICIAL DEVELOPMENTS

### Copyright Office Litigation

The plaintiff challenged the Copyright Office's refusal to register a claim to copyright in a videogame in *Atari Games v. Oman*, 888 F.2d 878 (D.C.Cir. 1989). On cross motions for summary judgment, the United States District Court for the District of Columbia, 693 F.Supp. 1204, granted the defendant's motion and denied the plaintiff's motion. The plaintiff appealed. The Court of Appeals reversed and remanded the case with instructions to return the matter to the Copyright Office for further administrative consideration. In applying the "abuse of discretion" standard to the refusal to register the "Breakout" videogame, the appeals court stated that it was "unable to discern from the final agency action disqualifying BREAKOUT for registration just how the Register is applying the relevant statutory prescriptions." Consequently, the court concluded that it could not determine whether an abuse of discretion had occurred and remanded the case for further consideration and explanation.

Following reconsideration pursuant to the direction of the court, the Copyright Office again refused registration of the "Breakout" videogame, and the case is under review by the district court once more.

### Mandatory Deposits

On January 12, 1990, the Copyright Office settled the suit brought against Springer-Verlag, a well-known German publisher of scientific literature, for failure to comply with the mandatory deposit requirements of Section 407 of the Copyright Act. Although convinced that the theory of the case is sound, the Register chose to settle in order to avoid procedural difficulties surrounding the service of process on foreign nationals. The defendant committed to meet the present demand for foreign publishers requiring one copy to be deposited for the use of the Library of Congress and any future deposit requirements for its works distributed with a notice of copyright in the United States.

### Subject Matter of Copyright

The court examined the copyrightability of greeting cards in *Roulo v. Russ Berrie & Co. Inc.* 886 F.2d 931 (7th Cir. 1989). The appellate court affirmed the lower court's holding that although common elements of cards are not entitled to copyright protection on an individual basis, the combination of elements and arrangement of layout are entitled to protection.

In *Business Trends Analysts, Inc., v. The Freedonia Group, Inc.*, 887 F.2d 399 (2d Cir. 1989), the Second Circuit drew a line between uncopyrightable "factual information" and the copyrightable compilation of factual information. It held that the plaintiff's industrial study that selected, coordinated, and arranged various facts was a "compilation" accorded protection.

Similarly, in *Harper House, Inc., v. Roman Nelson, Inc.*, 899 F.2d 197 (9th Cir. 1989), the Ninth Circuit found "organizers" produced to assist people in planning their daily activities, copyrightable subject matter as compilations. Conversely, the court held that non-textual utilitarian elements of the design such as the binder, pockets, ruler, and blank or ruled paper (forms) are excluded from protection as blank forms and/or useful articles. The court cautioned, however, that compilations consisting largely of uncopyrightable elements, as in the case of organizers, should be accorded only limited protection.

In *Kregos v. Associated Press*, 731 F.Supp. 113 (S.D.N.Y. 1990), the court analyzed the fundamental idea/expression dichotomy embraced in the so-called "merger doctrine." It held that the plain-

tiff's pitching form, which calculates and categorizes various statistics for pitchers scheduled to appear in upcoming baseball games, was uncopyrightable because the practical requirements of size and publishing limitations prevented the creator of the form from establishing the modicum of selection, coordination, and arrangement necessary to qualify the form as an original work of authorship. The idea and expression "merged."

Similarly, in *Kern River Gas Transmission Co. v. The Coastal Corporation*, 14 U.S.P.Q. 2d 1898 (5th Cir. 1990), the Fifth Circuit invoked the "merger doctrine," reasoning that the idea of the proposed location of a prospective pipeline and its expression as reflected in maps are *inseparable* and therefore not subject to copyright protection.

A number of cases dealt with the copyrightability of "derivative works." In *Paramount Pictures Corp. v. Video Broadcasting Systems*, 724 F.Supp. 808 (D. Kan. 1989), the court made an interesting distinction between a compilation of two different works and a derivative work. In response to the defendant's contention that the mere adding of an advertisement in front of a motion picture made the latter a new derivative work, the court held that the mere addition of an advertisement to a videocassette is not a new version but noted that a change or transformation need not be drastic. In *Peter Pan Fabrics, Inc. v. Rosstex Fabrics, Inc.*, 733 F.Supp. 176 (S.D.N.Y. 1990), the court considered fabric design by the elimination of stripes, alteration of the size and layout of the dashes, and addition of a repeat design to be sufficient new authorship.

**Copyright Formalities**

With respect to copyright registration, the court in *E.J. Novak v. N.B.C., Inc.*, 724 F.Supp. 141 (S.D.N.Y. 1989) held that the co-author of a copyrighted script was entitled to maintain an infringement action even though copyright was registered only in the name of the other co-author.

In *Valve & Primer v. Val-Matic Valve & Manufacturing Corporation*, 730 F.Supp. 141 (N.D. Ill. 1990), the district court held that adding the copyright notice to an updated version does not satisfy the statutory requirement to make a "reasonable effort to remedy the omission of a copyright notice." The plaintiff forfeited its copyright for failure to take corrective measures by adding a copyright notice to all publicly distributed copies in the United States after discovery of the omission.

In *Xerox Corporation v. Apple Computer, Inc.*, 734 F.Supp 1542 (N.D. Ca. 1990), the plaintiff sought a court order directing the Copyright Office to cancel registrations of two Apple programs. The court refused on the ground that there was nothing in the Copyright Act that gave a court authority to order the cancellation of registrations.

**Renewal Rights**

In *Stewart v. Abend*, 495 U.S. ____, 14 U.S.P.Q.2d 1614 (U.S. Sup. Ct., Apr. 24, 1990), the author of a pre-existing work, the short story, "It Had to Be Murder," assigned the rights in his renewal copyright term to the owner of the derivative motion picture, "Rear Window," based on the story, but he died before commencement of the renewal period. The question presented was whether the owner of the derivative motion picture infringed the rights of the successor owner of the pre-existing story because of the continued distribution of the motion picture during the renewal term of the pre-existing story. The suit was brought after petitioners re-released the 1954 film for theatrical exhibition in the United States and on videocassettes and videodiscs. The district court granted petitioners' motions for summary judgment. The appellate court reversed the ruling, holding that the use of the pre-existing work was infringing unless the owner of the derivative motion picture film held a valid grant of rights in the renewal term. *Abend v. MCA, Inc..*, 863 F.2d 1465, (9th Cir. 1988).

The Supreme Court affirmed the judgment of the Court of Appeals and remanded the case for

further proceedings, noting that the case presented 'a classic example of an unfair use: a commercial use of a fictional story that adversely affects the story owner's adaptation rights." The Supreme Court reasoned that the author of the underlying novel died before the commencement of the renewal period in the story, and therefore, the petitioners who own the rights in the derivative film hold only an unfulfilled expectancy. Quoting from *Miller Music Corp. v. Charles N. Daniels, Inc.*, 362 U.S. 373 (1960), upon which the Court of Appeals relied, the majority concluded that "[p]etitioners have been 'deprived of nothing. Like all purchasers of contingent interests, [they took] subject to the possibility that the contingency may not occur.'"

The Second Circuit rendered an interesting decision, regarding renewal rights in copyright, in *Stone v. Williams*, 891 F.2d 401 (2d Cir. 1989). The plaintiff, a country singer's illegitimate daughter, brought an action against the singer's son and other statutory heirs for her alleged share in the renewal copyright. The district court granted the defendant's motion for summary judgment because of laches. The Second Circuit reversed on the rationale that the plaintiff was not barred by laches from bringing an action seeking her purported share of copyright renewal rights to songs composed by her father given evidence that the statutory heirs had fraudulently conspired to keep facts relating to the daughter's whereabouts and potential claim concealed from the courts.

**Fraud on the Copyright Office**

*Whimsicality, Inc. v. Rubie's Costume Co., Inc.*, 891 F.2d 452 (2d Cir. 1989), illustrates an apparent fraud on the Copyright Office. The plaintiff, a costume manufacturer, sued its competitor for copyright infringement of its costumes. The district court denied the plaintiff's motion for injunctive relief and granted the defendant's motion for summary judgment. On appeal, the Second Circuit held that the copyrights were invalid because of the plaintiff's written misrepresentations to the Copyright Office that costumes were "soft sculptures" registrable as "useful articles." "It is the law of this Circuit," observed the court, "that the knowing failure to advise the Copyright Office of facts, which might have occasioned a rejection of the application for registration of a claim to copyright, constitutes reason for holding the registration invalid and thus incapable of supporting an infringement action."

**Computer Programs**

In *Lotus Development Corporation v. Paperback Software International and Stephenson Software, Ltd.*, D.C.C.A. 87-76-K, (D. Mass. June 28, 1990), the court examined the copyrightability of *nonliteral* elements of the user interface menu command system of a computer program applied to spreadsheet calculations. Uncomfortable with the argument that the "look and feel" of a program could be copyrighted, the court restricted its analysis to the user interface. Finding that the Lotus 1-2-3 screen display, user interface, is copyrightable, the court rejected the defendant's contention that nonliteral elements of a computer program are noncopyrightable and held that its VP Planner program infringed the plaintiff's copyright.

Taking the idea/expression dichotomy as a point of departure, the court employed a three-tier legal test in order to determine the copyrightability of nonliteral elements of a computer program. The arbiter, by using "judgmental and evaluative standards," must (1) *determine* the level of expression on the abstraction scale from the most generalized conception to the most particularized, and choose some formulation of the idea; (2) determine whether the expression of the idea is limited to elements essential to expression of that idea; and (3) *establish* whether the essential elements are a *substantial* part of the allegedly copyrightable work.

Applying the test to the Lotus 1-2-3 screen display, the court held that the *structure, organi-*

*zation*, and *sequence* of the menu command system is an original expression of the electronic spreadsheet, which constitutes a substantial part of the computer program.

The court dismissed the defendant's argument that a protection of nonliteral elements will have an adverse effect on creativity and innovation. The court explained: "It is not—the screen display itself, in this narrow sense, that is a copyrightable 'computer program,' . . . but rather the literal and nonliteral elements of not only the display but also the distinctive way of creating it."

In *Johnson Controls, Inc. v. Phoenix Control Systems, Inc.*, 886 F.2d 1173 (9th Cir. 1989), the Ninth Circuit asserted that copyright protection is not limited to the literal aspects of a computer program but extends to the overall structure, sequence, and organization of the program. The court held that whether a particular component of a program is protected by copyright depends on whether it qualifies as an "expression" of an idea rather than the idea itself. The court found the plaintiff's creation of customized packages for individual clients evidence of individualized expression. But, the court cautioned that where an expression, as a practical matter, is indispensable or at least standard in the treatment of a given idea, the expression is protected only against verbatim or virtually identical copying.

**Satellite Television**

*Cable/Home Communication v. Network Productions, Inc.*, 902 F.2d 829 (11th Cir. 1990), addressed the recurring problem of piracy of satellite television programming. The defendants/appellants helped to create, promote, distribute, and import various "pirate chips" designed to neutralize the proper function of the plaintiff's computer program created to scramble satellite transmission. The 11th Circuit affirmed the lower court's grant of a motion for summary judgment and award of statutory damages on the ground that the defendants, through unauthorized distribution and willful misappropriation of the plaintiff's television programming, violated the federal laws of copyright and communication.

**Cable Television**

In *United Video, Inc. v. F.C.C.*, 890 F.2d 1173 (D.C. Cir. 1989), cable television enterprises challenged the F.C.C.'s policy decision to reinstate the syndicated exclusivity rule. Reiterating that deregulation of cable television industry raises serious policy questions best left to the agencies that were created, in large part, to resolve them, the court held that (1) the F.C.C.'s decision to reinstate syndicated exclusivity regulation in order to promote diversity in syndicated programming was not arbitrary and capricious; (2) the F.C.C. adequately explained the change in the agency's position in light of changed circumstances; and (3) the F.C.C. had the authority to impose rules emanating from its broad grant of authority under the Federal Communications Act.

**Copyright Infringement/Remedies**

In *Love v. New York City*, 13 U.S.P.Q.2d 1988, (S.D.N.Y. 1989), the court ruled that when an infringement occurred before and after registration, the infringement "commenced" *before* registration. Conversely, with respect to infringement of published works, the law is well-settled. In *Goldberg v. Doe*, 731 F.Supp. 1155 (E.D.N.Y. 1990), the court held that the copyright owner of a video depicting his comedy routine was not entitled to recover statutory damages for infringement when the infringement occurred before the effective date of registration of the copyright and more than three months after the work's first publication.

In *Walt Disney Co. v. Powell*, 877 F.2d 565 (D.C. Cir. 1990), the appellate court reversed and remanded the district court's statutory damages award for each of six infringements of the plaintiff's" Mickey Mouse" and "Minnie Mouse" characters. The court explained that statutory damages

are to be calculated according to the number of works infringed rather than the number of infringements. To qualify as a separate work for purposes of calculating statutory damages, the subject matter of the copyright must have separate economic value.

**Fair Use**

In *Nash v. CBS Inc.*, 899 F.2d 1537 (7th Cir. 1990), the plaintiff had written several books speculating that John Dillinger—"Public Enemy No. 1"—was not the hoodlum killed outside of Chicago's Biograph Theatre on July 22, 1934. The defendant CBS conceded access to and use of plaintiff's "factual material" in an episode for its "Simon and Simon" television show. The trial court granted the defendant summary judgment on the ground that CBS did not copy copyrightable expression. The Seventh Circuit observed that it did not subscribe to either the theory that the first author of a historical work can forbid all similar treatments of history by an author of a subsequent work or to the proposition that a later author can use anything he pleases of the first author's work. The court also observed that prior to publication of the first work, broad protection of intellectual property seems best but after publication, narrow protection seems best. The court held that CBS did not infringe since it used Nash's analysis of history but not his expression.

In the ongoing New Era litigation, the district court enjoined the publication of the defendant's biography of L. Ron Hubbard. *New Era Publications International v. Carol Publishing Group*, 729 F. Supp. 922 (S.D.N.Y. 1990). The district court rejected the defendant's argument that the extensive quotations from copyrighted material exclusively licensed to the plaintiff was fair. The court found three of the four use factors favored the plaintiff and emphasized that while the defendant's critical biography was scholarly, many of the passages quoted did not serve such a purpose. The district court observed that necessary deletions could be made easily since the work was still in the manuscript change. In a quick turnaround, the Second Circuit reversed the finding that all four of the statutory fair use factors favored the defendant. 904 F.2d 152 (2nd Cir. 1990). The appellate court observed that the scope of fair use was narrower with unpublished works but these works had already been published by Hubbard and were primarily factual. A petition for certiorari was filed August 22, 1990.

**Useful Articles**

In *Masquerade Novelty, Inc. v. Unique Industries, Inc.*, D.C.C.A. No. 89-6926, (3rd Cir. Aug. 27, 1990), the appellate court overturned a district court ruling that novelty nose masks configured to resemble noses of a pig, an elephant, and a parrot were uncopyrightable useful articles because their sculptural elements could not be separated from their utilitarian purpose, creating humor when a person wears one. The Third Circuit found that the district court erred in finding the nose masks uncopyrightable since the error "flows from regarding as a utilitarian function the effect, humor, produced by the only utility the nose masks have, which is in their portrayal of animal noses." In other words, the *emotional effect* that an article may produce on a viewer does not figure in the utility of the article.

**Preemption Doctrine**

In *Association of American Medical Colleges v. Carey*, 728 F.Supp. 873 (N.D.N.Y 1990), the court examined the preemption doctrine. The plaintiff challenged the disclosure provisions of the New York Truth in Testing Act, maintaining that state law was preempted by the Copyright Act. The court found that the broad disclosure of MCAT test questions, dictated by the Standardized Testing Act, would seriously impair or even destroy the value of copyrighted exams. The court did not accept the defendant's fair use argument and held

that the New York Act is preempted because it operates to deny MCAT the benefits which are conferred by the Copyright Act. The New York disclosure provisions are also at cross purposes with federal legislation regarding "secure test" exams. Copyright regulations protect secure tests from public disclosure and serve as further support for a finding that the state act is preempted.

In what appears to be a case of first impression, *National Peregrine, Inc. v. Capital Federal Savings and Loan Association of Denver,* No. CA 90-10-83-AK (C.D. Ca., June 28, 1990), carries the preemption doctrine into the uncharted territory of "security interest." In an appeal from a decision of a bankruptcy court, the District Court of the Central District of California noted that when a federal statute provides for a national system of recordation or specifies a place for filing different from that of Article Nine of the Uniform Commercial Code, the methods of perfecting a security interest specified in Article Nine are supplanted by that national system. It held that Section 205 of the Copyright Act provides for national registration and specifies a place of filing different than that specified in Article Nine. Consequently, the proper method for perfecting a security interest in a copyright is by recording it in the Copyright Office. Although the Office is already filing such documents, it is clear that the *Peregrine* decision will result in more recordings of security interests in copyrighted works.

The 11th Circuit applied the Supreme Court's recent ruling on work made for hire in *M.G.B. Homes, Inc. v. Ameron Homes, Inc.,* 15 U.S.P.Q.2d 1282 (11th Cir. 1990). The court held that the defendant, a drafting service enterprise, was not an employee of the plaintiff, a home builder, but an independent contractor. Since architectural drafting does not fall within the nine enumerated categories of activities which may be done by an independent contractor "for hire," and there was no evidence that the plaintiff and the defendant had a written contract stating that the architectural drawings would be considered a work for hire, the court concluded that the plaintiff was not the author of the house drawings under the "work-for-hire" doctrine.

**First Sale Doctrine**

The relationship between copyright as an intangible right and the ownership of the physical copy or phonorecord in which a copyrighted work is fixed is construed and applied in *Brode v. Tax Management, Inc.,* 14 U.S.P.Q.2d 1195 (N.D. Ill. 1990). The court granted in part the defendant's motion for summary judgment based on the first sale-doctrine rationale. Section 109 of the Copyright Act provides that the owner of a copy of a copyrighted work is entitled to sell or otherwise dispose of that particular copy. Thus, the defendant had no duty to require its subscribers to remove from their shelves the plaintiff's tax portfolio distributed prior to the expiration of the license agreements. The court denied the defendant's summary judgment motion as to conduct that constituted action *after* the license expired.

## A POSTSCRIPT

Since the end of Fiscal Year 1990, two bills affecting copyright have been passed by Congress. One has been signed into law; the other awaits the President's signature. These laws clarify and amend the Copyright Act in several important ways.

H.R. 3045, the Copyright Remedy Clarification Act, was signed into law by President Bush on November 15, 1990. The act clarifies that states (and representatives of states) are subject to suit for money damages in Federal court for copyright and mask work infringements.

H.R. 5316, entitled the Judicial Improvements Act of 1990, was passed by Congress on October 28, 1990, and contains three important copyright provisions. If signed it will create a new category of works, architectural works, entitled to copyright protection; prohibit the direct or indirect

commercial rental of computer software; and amend the Copyright Act to provide for certain "moral rights" for visual artists in certain instances.

Respectfully submitted,
RALPH OMAN

*Register of Copyrights and*
*Associate Librarian of Congress*
*for Copyright Services*

## *International Copyright Relations of the United States as of September 30, 1990*

This table sets forth U.S. copyright relations of current interest with the other independent nations of the world. Each entry gives country name (and alternate name) and a statement of copyright relations. The following code is used:

| | |
|---|---|
| Berne | Party to the Berne Convention for the Protection of Literary and Artistic Works as of the date given. Appearing within parentheses is the latest Act [1] of the Convention to which the country is party. The effective date for the United States was March 1, 1989. The latest Act of the Convention to which the United States is party is the revision done at Paris on July 24, 1971. |
| Bilateral | Bilateral copyright relations with the United States by virtue of a proclamation or treaty, as of the date given. Where there is more than one proclamation or treaty, only the date of the first one is given. |
| BAC | Party to the Buenos Aires Convention of 1910, as of the date given. U.S. ratification deposited with the government of Argentina, May 1, 1911; proclaimed by the President of the United States, July 13, 1914. |
| None | No copyright relations with the United States. |
| Phonogram | Party to the Convention for the Protection of Producers of Phonograms against Unauthorized Duplication of Their Phonograms, Geneva, 1971, as of the date given. The effective date for the United States was March 10, 1974. |
| SAT | Party to the Convention Relating to the Distribution of Programme-Carrying Signals Transmitted by Satellite, Brussels, 1974, as of the date given. The effective date for the United States was March 7, 1985. |
| UCC Geneva | Party to the Universal Copyright Convention, Geneva, 1952, as of the date given. The effective date for the United States was September 16, 1955. |
| UCC Paris | Party to the Universal Copyright Convention as revised at Paris, 1971, as of the date given. The effective date for the United States was July 10, 1974. |
| Unclear | Became independent since 1943. Has not established copyright relations with the United States, but may be honoring obligations incurred under former political status. |

**Afghanistan**
None

**Albania**
None

**Algeria**
UCC Geneva Aug. 28, 1973
UCC Paris July 10, 1974

**Andorra**
UCC Geneva Sept. 16, 1955

**Angola**
Unclear

**Antigua and Barbuda**
Unclear

**Argentina**
Bilateral Aug. 23, 1934
BAC April 19, 1950
UCC Geneva Feb. 13, 1958
Berne June 10, 1967 (Brussels) [2]
Phonogram June 30, 1973 [3]

**Australia**
Bilateral Mar. 15, 1918
Berne April 14, 1928 (Paris) [2]
UCC Geneva May 1, 1969
Phonogram June 22, 1974
UCC Paris Feb. 28, 1978

**Austria**
Bilateral Sept. 20, 1907
Berne Oct. 1, 1920 (Paris) [2]
UCC Geneva July 2, 1957
SAT Aug. 6, 1982 [4]
UCC Paris Aug. 14, 1982
Phonogram Aug. 21, 1982

**Bahamas, The**
Berne July 10, 1973 (Brussels) [2]
UCC Geneva Dec. 27, 1976
UCC Paris Dec. 27, 1976

**Bahrain**
None

**Bangladesh**
UCC Geneva Aug. 5, 1975
UCC Paris Aug. 5, 1975

**Barbados**
UCC Geneva June 18, 1983
UCC Paris June 18, 1983
Berne July 30, 1983 (Paris) [2]
Phonogram July 29, 1983

**Belau**
Unclear

**Belgium**
Berne Dec. 5, 1887 (Brussels) [2]

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

**Belize**
UCC Geneva Dec. 1, 1982

**Benin**
(formerly Dahomey)
Berne Jan. 3, 1961 (Paris) [2]

**Bhutan**
None

**Bolivia**
BAC May 15, 1914
UCC Geneva Mar. 22, 1990
UCC Paris Mar. 22, 1990

**Botswana**
Unclear

**Brazil**
BAC Aug. 31, 1915
Berne Feb. 9, 1922 (Paris) [2]
Bilateral April 2, 1957
UCC Geneva Jan. 13, 1960
Phonogram Nov. 28, 1975
UCC Paris Dec. 11, 1975

**Brunei**
Unclear

**Bulgaria**
Berne Dec. 5, 1921 (Paris) [2]
UCC Geneva June 7, 1975
UCC Paris June 7, 1975

**Burkina Faso**
(formerly Upper Volta)
Berne Aug. 19, 1963 (Paris) [2]
Phonogram Jan. 30, 1988

**Burma**
Unclear

**Burundi**
Unclear

**Cambodia**
UCC Geneva Sept. 16, 1955

**Cameroon**
Berne Sept. 21, 1964 (Paris) [2]
UCC Geneva May 1, 1973
UCC Paris July 10, 1974

**Canada**
Bilateral Jan. 1, 1924
Berne April 10, 1928 (Rome) [2]
UCC Geneva Aug. 10, 1962

**Cape Verde**
Unclear

**Central African Republic**
Berne Sept. 3, 1977 (Paris) [2]

**Chad**
Berne Nov. 25, 1971 (Brussels) [2]

**Chile**
Bilateral May 25, 1896
BAC June 14, 1955
UCC Geneva Sept. 16, 1955
Berne June 5, 1970 (Paris) [2]
Phonogram Mar. 24, 1977

**China** [5]
Bilateral Jan. 13, 1904

**Colombia**
BAC Dec. 23, 1936
UCC Geneva June 18, 1976
UCC Paris June 18, 1976
Berne Mar. 7, 1988 (Paris) [2]

**Comoros**
Unclear

**Congo**
Berne May 8, 1962 (Paris) [2]

**Costa Rica** [6]
Bilateral Oct. 19, 1899
BAC Nov. 30, 1916
UCC Geneva Sept. 16, 1955
Berne June 10, 1978 (Paris) [2]
UCC Paris Mar. 7, 1980
Phonogram June 17, 1982

**Côte d'Ivoire (Ivory Coast)**
Berne Jan. 1, 1962 (Paris) [2]

**Cuba**
Bilateral Nov. 17, 1903
UCC Geneva June 18, 1957

**Cyprus**
Berne Feb. 24, 1964 (Paris) [2]

**Czechoslovakia**
Berne Feb. 22, 1921 (Paris) [2]
Bilateral Mar. 1, 1927
UCC Geneva Jan. 6, 1960
UCC Paris April 17, 1980
Phonogram Jan. 15, 1985

**Denmark**
Bilateral May 8, 1893
Berne July 1, 1903 (Paris) [2]
UCC Geneva Feb. 9, 1962
Phonogram Mar. 24, 1977
UCC Paris July 11, 1979

**Djibouti**
Unclear

**Dominica**
Unclear

**Dominican Republic** [6]
BAC Oct. 31, 1912
UCC Geneva May 8, 1983
UCC Paris May 8, 1983

**Ecuador**
BAC Aug. 31, 1914
UCC Geneva June 5, 1957
Phonogram Sept. 14, 1974

**Egypt**
Berne June 7, 1977 (Paris) [2]
Phonogram April 23, 1978

**El Salvador**
Bilateral June 30, 1908, by virtue of
Mexico City Convention, 1902
Phonogram Feb. 9, 1979
UCC Geneva Mar. 29, 1979
UCC Paris Mar. 29, 1979

**Equatorial Guinea**
Unclear

**Ethiopia**
None

**Fiji**
UCC Geneva Oct. 10, 1970
Berne Dec. 1, 1971 (Brussels) [2]
Phonogram April 18, 1973 [3]

**Finland**
Berne April 1, 1928 (Paris) [2]
Bilateral Jan. 1, 1929
UCC Geneva April 16, 1963
Phonogram April 18, 1973 [3]
UCC Paris Nov. 1, 1986

**France**
Berne Dec. 5, 1887 (Paris) [2]
Bilateral July 1, 1891
UCC Geneva Jan. 14, 1956
Phonogram April 18, 1973 [3]
UCC Paris July 10, 1974

**Gabon**
Berne Mar. 26, 1962 (Paris) [2]

**Gambia, The**
Unclear

**German Democratic Republic**
Berne Dec. 5, 1887 (Paris) [2, 7]
UCC Geneva Oct. 5, 1973
UCC Paris Dec. 10, 1980

**Germany**
Bilateral April 15, 1892

**Germany, Federal Republic of**
Berne Dec. 5, 1887 (Paris) [2, 7]
UCC Geneva Sept. 16, 1955
Phonogram May 18, 1974
UCC Paris July 10, 1974
SAT Aug. 25, 1979 [4]

**Ghana**
UCC Geneva Aug. 22, 1962

**Greece**
Berne Nov. 9, 1920 (Paris) [2]
Bilateral Mar. 1, 1932
UCC Geneva Aug. 24, 1963

**Grenada**
Unclear

**Guatemala** [6]
BAC Mar. 28, 1913
UCC Geneva Oct. 28, 1964
Phonogram Feb. 1, 1977

**Guinea**
Berne Nov. 20, 1980 (Paris) [2]
UCC Geneva Nov. 13, 1981
UCC Paris Nov. 13, 1981

**Guinea-Bissau**
Unclear

**Guyana**
Unclear

**Haiti**
BAC Nov. 27, 1919
UCC Geneva Sept. 16, 1955

**Holy See**
(See entry under Vatican City)

**Honduras** [6]
BAC April 27, 1914
Berne Jan. 25, 1990 (Paris) [2]
Phonogram Mar. 6, 1990

**Hungary**
Bilateral Oct. 16, 1912
Berne Feb. 14, 1922 (Paris) [2]
UCC Geneva Jan. 23, 1971
UCC Paris July 10, 1974
Phonogram May 28, 1975

**Iceland**
Berne Sept. 7, 1947 (Rome) [2]
UCC Geneva Dec. 18, 1956

**India**
Berne April 1, 1928 (Paris) [2]
Bilateral Aug. 15, 1947
UCC Geneva Jan. 21, 1958
Phonogram Feb. 12, 1975

**Indonesia**
Bilateral Aug. 1, 1989

**Iran**
None

**Iraq**
None

**Ireland**
Berne Oct. 5, 1927 (Brussels) [2]
Bilateral Oct. 1, 1929
UCC Geneva Jan. 20, 1959

**Israel**
Bilateral May 15, 1948
Berne Mar. 24, 1950 (Brussels) [2]
UCC Geneva Sept. 16, 1955
Phonogram May 1, 1978

**Italy**
Berne Dec. 5, 1887 (Paris) [2]
Bilateral Oct. 31, 1892
UCC Geneva Jan. 24, 1957
Phonogram Mar. 24, 1977
UCC Paris Jan. 25, 1980
SAT July 7, 1981 [4]

**Ivory Coast**
(See entry under Côte d'Ivoire)

**Jamaica**
None

**Japan** [8]
Berne July 15, 1899 (Paris) [2]
UCC Geneva April 28, 1956
UCC Paris Oct. 21, 1977
Phonogram Oct. 14, 1978

**Jordan**
Unclear

**Kenya**
UCC Geneva Sept. 7, 1966
UCC Paris July 10, 1974
Phonogram April 21, 1976
SAT Aug. 25, 1979 [4]

**Kiribati**
Unclear

**Korea**

**Democratic People's Republic of Korea**
Unclear

**Republic of Korea**
UCC Geneva Oct. 1, 1987
UCC Paris Oct. 1, 1987
Phonogram Oct. 10, 1987

**Kuwait**
Unclear

**Laos**
UCC Geneva Sept. 16, 1955

**Lebanon**
Berne Sept. 30, 1947 (Rome) [2]
UCC Geneva Oct. 17, 1959

**Lesotho**
Unclear

**Liberia**
UCC Geneva July 27, 1956
Berne Mar. 8, 1989 (Paris)

**Libya**
Berne Sept. 28, 1976 (Paris) [2]

**Liechtenstein**
Berne July 30, 1931 (Brussels) [2]
UCC Geneva Jan. 22, 1959

**Luxembourg**
Berne June 20, 1888 (Paris) [2]
Bilateral June 29, 1910
UCC Geneva Oct. 15, 1955
Phonogram Mar. 8, 1976

**Madagascar**
(Malagasy Republic)
Berne Jan. 1, 1966 (Brussels) [2]

**Malawi**
UCC Geneva Oct. 26, 1965

**Malaysia**
Berne Oct. 1, 1990 (Paris) [2]

**Maldives**
Unclear

**Mali**
Berne Mar. 19, 1962 (Paris) [2]

**Malta**
Berne Sept. 21, 1964 (Rome) [2]
UCC Geneva Nov. 19, 1968

**Mauritania**
Berne Feb. 6, 1973 (Paris) [2]

**Mauritius**
UCC Geneva Mar. 12, 1968

**Mexico**
Bilateral Feb. 27, 1896
UCC Geneva May 12, 1957
BAC April 24, 1964
Berne June 11, 1967 (Paris) [2]
Phonogram Dec. 21, 1973 [3]
UCC Paris Oct. 31, 1975
SAT Aug. 25, 1979 [4]

**Monaco**
Berne May 30, 1889 (Paris) [2]
Bilateral Oct. 15, 1952
UCC Geneva Sept. 16, 1955
Phonogram Dec. 2, 1974
UCC Paris Dec. 13, 1974

**Mongolia**
None

**Morocco**
Berne June 16, 1917 (Paris) [2]
UCC Geneva May 8, 1972
UCC Paris Jan. 28, 1976
SAT June 30, 1983 [4]

**Mozambique**
Unclear

**Nauru**
Unclear

**Nepal**
None

**Netherlands**
Bilateral Nov. 20, 1899
Berne Nov. 1, 1912 (Paris) [2]
UCC Geneva June 22, 1967
UCC Paris Nov. 30, 1985

**New Zealand**
Bilateral Dec. 1, 1916
Berne April 24, 1928 (Rome) [2]
UCC Geneva Sept. 11, 1964
Phonogram Aug. 13, 1976

**Nicaragua** [6]
BAC Dec. 15, 1913
UCC Geneva Aug. 16, 1961
SAT Aug. 25, 1979 [4]

**Niger**
Berne May 2, 1962 (Paris) [2]

**Nigeria**
UCC Geneva Feb. 14, 1962

**Norway**
Berne April 13, 1896 (Brussels) [2]
Bilateral July 1, 1905
UCC Geneva Jan. 23, 1963
UCC Paris Aug. 7, 1974
Phonogram Aug. 1, 1978

**Oman**
None

**Pakistan**
Berne July 5, 1948 (Rome) [2]
UCC Geneva Sept. 16, 1955

**Panama**
BAC Nov. 25, 1913
UCC Geneva Oct. 17, 1962
Phonogram June 29, 1974
UCC Paris Sept. 3, 1980
SAT Sept. 25, 1985

**Papua New Guinea**
Unclear

**Paraguay**
BAC Sept. 20, 1917
UCC Geneva Mar. 11, 1962
Phonogram Feb. 13, 1979

**Peru**
BAC April 30, 1920
UCC Geneva Oct. 16, 1963
UCC Paris July 22, 1985
SAT Aug. 7, 1985
Phonogram Aug. 24, 1985
Berne Aug. 20, 1988 (Paris) [2]

**Philippines**
Bilateral Oct. 21, 1948
Berne Aug. 1, 1951 (Brussels) [2]
UCC status undetermined by UNESCO. (Copyright Office considers that UCC relations do not exist.)

**Poland**
Berne Jan. 28, 1920 (Rome) [2]
Bilateral Feb. 16, 1927
UCC Geneva Mar. 9, 1977
UCC Paris Mar. 9, 1977

**Portugal**
Bilateral July 20, 1893
Berne Mar. 29, 1911 (Paris) [2]
UCC Geneva Dec. 25, 1956
UCC Paris July 30, 1981

**Qatar**
None

**Romania**
Berne Jan. 1, 1927 (Rome) [2]
Bilateral May 14, 1928

**Rwanda**
Berne Mar. 1, 1984 (Paris) [2]

**Saint Christopher and Nevis**
Unclear

**Saint Lucia**
Unclear

**Saint Vincent and the Grenadines**
UCC Geneva April 22, 1985
UCC Paris April 22, 1985

**San Marino**
None

**São Tomé and Príncipe**
Unclear

**Saudi Arabia**
None

**Senegal**
Berne Aug. 25, 1962 (Paris) [2]
UCC Geneva July 9, 1974
UCC Paris July 10, 1974

**Seychelles**
Unclear

**Sierra Leone**
None

**Singapore**
Bilateral May 18, 1987

**Solomon Islands**
Unclear

**Somalia**
Unclear

**South Africa**
Bilateral July 1, 1924
Berne Oct. 3, 1928 (Brussels) [2]

**Soviet Union**
UCC Geneva May 27, 1973
SAT Jan. 20, 1989

**Spain**
Berne Dec. 5, 1887 (Paris) [2]
Bilateral July 10, 1895
UCC Geneva Sept. 16, 1955
UCC Paris July 10, 1974
Phonogram Aug. 24, 1974

**Sri Lanka**
(formerly Ceylon)
Berne July 20, 1959 (Rome) [2]
UCC Geneva Jan. 25, 1984
UCC Paris Jan. 25, 1984

**Sudan**
Unclear

**Suriname**
Berne Feb. 23, 1977 (Paris) [2]

**Swaziland**
Unclear

**Sweden**
Berne Aug. 1, 1904 (Paris) [2]
Bilateral June 1, 1911
UCC Geneva July 1, 1961
Phonogram April 18, 1973 [3]
UCC Paris July 10, 1974

**Switzerland**
Berne Dec. 5, 1887 (Brussels) [2]
Bilateral July 1, 1891
UCC Geneva Mar. 30, 1956

**Syria**
Unclear

**Tanzania**
Unclear

**Thailand**
Bilateral Sept. 1, 1921
Berne July 17, 1931 (Berlin) [2]

**Togo**
Berne April 30, 1975 (Paris) [2]

**Tonga**
None

**Trinidad and Tobago**
Berne Aug. 16, 1988 (Paris) [2]
UCC Geneva Aug. 19, 1988
UCC Paris Aug. 19, 1988
Phonogram Oct. 1, 1988

**Tunisia**
Berne Dec. 5, 1887 (Paris) [2]
UCC Geneva June 19, 1969
UCC Paris June 10, 1975

**Turkey**
Berne Jan. 1, 1952 (Brussels) [2]

**Tuvalu**
Unclear

**Uganda**
Unclear

**United Arab Emirates**
None

**United Kingdom**
Berne Dec. 5, 1887 (Paris) [2]
Bilateral July 1, 1891
UCC Geneva Sept. 27, 1957
Phonogram April 18, 1973 [3]
UCC Paris July 10, 1974

**Upper Volta**
(See entry under Burkina Faso)

**Uruguay**
BAC Dec. 17, 1919
Berne July 10, 1967 (Paris) [2]
Phonogram Jan. 18, 1983

**Vanuatu**
Unclear

**Vatican City**
(Holy See)
Berne Sept. 12, 1935 (Paris) [2]
UCC Geneva Oct. 5, 1955
Phonogram July 18, 1977
UCC Paris May 6, 1980

**Venezuela**
UCC Geneva Sept. 30, 1966
Phonogram Nov. 18, 1982
Berne Dec. 30, 1982 (Paris) [2]

**Vietnam**
Unclear

**Western Samoa**
Unclear

**Yemen (Aden)**
Unclear

**Yemen (San'a)**
None

**Yugoslavia**
Berne June 17, 1930 (Paris) [2]
UCC Geneva May 11, 1966
UCC Paris July 10, 1974
SAT Aug. 25, 1979 [4]

**Zaire**
Berne Oct. 8, 1963 (Paris) [2]
Phonogram Nov. 29, 1977

**Zambia**
UCC Geneva June 1, 1965

**Zimbabwe**
Berne April 18, 1980 (Rome) [2]

[1] "Paris" means the Berne Convention for the Protection of Literary and Artistic Works as revised at Paris on July 24, 1971 (Paris Act); "Stockholm" means the said Convention as revised at Stockholm on July 14, 1967 (Stockholm Act); "Brussels" means the said Convention as revised at Brussels on June 26, 1948 (Brussels Act); "Rome" means the said Convention as revised at Rome on June 2, 1928 (Rome Act); "Berlin" means the said Convention as revised at Berlin on November 13, 1908 (Berlin Act). NOTE: In each case the reference to Act signifies adherence to the substantive provisions of such Act only, e.g., Articles 1 to 21 of the Paris Act.

[2] The Berne Convention for the Protection of Literary and Artistic Works of September 9, 1886, as revised at Paris on July 24, 1971, did no enter into force with respect to the United States until March 1, 1989.

[3] The Convention for the Protection of Producers of Phonograms Against Unauthorized Duplication of Their Phonograms done at Geneva on October 29, 1971, did not enter into force with respect to the United States until March 10, 1974.

[4] The Convention Relating to the Distribution of Programme-Carrying Signals Transmitted by Satellite done at Brussels on May 21, 1974, did not enter into force with respect to the United States until March 7, 1985.

[5] The government of the Peoples Republic of China views this treaty as not binding on the PRC. In the territory administered by the authorities on Taiwan the treaty is considered to be in force.

[6] This country became a party to the Mexico City Convention, 1902, effective June 30, 1908, to which the United States also became a party, effective on the same date. As regards copyright relations with the United States, this Convention is considered to have been superseded by adherence of this country and the United States to the Buenos Aires Convention of 1910.

[7] Date on which the accession by the German Empire became effective.

[8] Bilateral copyright relations between Japan and the United States, which were formulated effective May 10, 1906, are considered to have been abrogated and superseded by the adherence of Japan to the UCC Geneva, effective April 28, 1956.

*Number of Registrations by Subject Matter, Fiscal 1990*

| Category of material | Published | Unpublished | Total |
|---|---|---|---|
| Nondramatic literary works | | | |
| Monographs and machine-readable works | 133,352 | 46,319 | 179,671 |
| Serials | 111,539 | | 111,539 |
| Total | 244,891 | 46,319 | 291,210 |
| Works of the performing arts, including musical works, dramatic works, choreography and pantomimes, and motion pictures and filmstrips | 48,929 | 136,386 | 185,315 |
| Works of the visual arts, including two-dimensional works of fine and graphic art, sculptural works, technical drawings and models, photographs, cartographic works, commercial prints and labels, and works of applied art | 52,447 | 24,271 | 76,718 |
| Sound recordings | 11,784 | 25,743 | 37,527 |
| Grand total | 358,051 | 232,719 | 590,770 |
| Renewals | | | 51,834 |
| Total, all copyright registrations | | | 642,604 |
| Mask work registrations | | | 998 |

*Number of Registrations Cataloged by Subject Matter, Fiscal 1990*

| Category of material | Total |
|---|---|
| Nondramatic literary works | |
| Monographs and machine-readable works | 166,567 |
| Serials | 122,690 |
| Total | 289,257 |
| Works of the performing arts, including musical works, dramatic works, choreography and pantomimes, and motion pictures and filmstrips | 185,805 |
| Works of the visual arts, including two-dimensional works of fine and graphic art, sculptural works, technical drawings and models, photographs, cartographic works, commercial prints and labels, and works of applied art | 62,464 |
| Sound Recordings | 27,196 |
| Renewals | 52,519 |
| Total, all claims cataloged | 617,241 |
| Documents recorded | 10,969 |

## *Information and Reference Services, Fiscal 1990*

| | |
|---|---|
| Direct reference services | |
| In person | 28,946 |
| By correspondence | 149,271 |
| By telephone | 246,068 |
| Total | [1] 424,285 |
| Search requests received | 10,415 |
| Titles searched | 193,313 |
| Search reports prepared | 8,478 |
| Additional certificates | 7,028 |
| Other certifications | 906 |
| Deposits copied | 1,645 |

[1] Includes 841 in-person services, 2,256 correspondence services and 2,033 telephone reference services provided by the Licensing Division.

## *Summary of Copyright Business, Fiscal 1990*

| Receipts | Claims | Fees |
|---|---|---|
| Copyright registrations at $10 | 632,473 | $6,324,730 |
| Renewals at $6 | 53,362 | 320,172 |
| Total claims and fees therefrom | 685,835 | $6,644,902 |
| Fees for recording documents | | 253,800 |
| Fees for certified documents | | 73,400 |
| Fees for searches made | | 188,200 |
| Fees for special handling | | 464,200 |
| Fees for expedited services | | 28,114 |
| Fees for registering mask works at $20 | | 22,980 |
| Fees for 407 deposits at $2 | | 934 |
| Fees for other services (photocopying, etc.) | | 19,765 |
| Total fees exclusive of copyright registration claims | | $1,051,393 |
| **Total fees** | | $7,696,295 |
| **Transfers** | | |
| Fees transferred to appropriation | | $7,000,000 |
| Fees transferred to miscellaneous receipts | | 463,000 |
| Total fees transferred | | $7,463,000 |

*Disposition of Copyright Deposits, Fiscal 1990*

| Category of material | Received for copyright registration and added to copyright collection | Received for copyright registration and forwarded to other departments of the Library | Acquired or deposited without copyright registration | Total |
|---|---|---|---|---|
| Nondramatic literary works | | | | |
| Monographs and machine-readable works | 106,880 | 178,458 | 21,661 | 306,999 |
| Serials | 0 | 245,380 | 270,131 | 515,511 |
| Works of the performing arts, including musical works, dramatic works, choreography and pantomimes, and motion pictures and filmstrips | 157,422 | 52,465 | 53 | 209,940 |
| Sound recordings | 20,559 | 15,909 | 485 | 36,953 |
| Works of the visual arts, including two-dimensional works of fine and graphic art, sculptural works, technical drawings and models, photographs, commercial prints and labels, and works of applied art | 59,089 | 1,232 | 90 | 60,411 |
| Cartographic works | 200 | 3,195 | 1,460 | 4,855 |
| Total, all deposits | 344,150 | 496,639 | 293,880 | 1,134,669 |

*Estimated Value of Materials Transferred to the Library of Congress*

| | Items accompanying copyright registration | Items submitted for deposit only under 407 | Total items transferred | Average unit price | Total value of items transferred |
|---|---|---|---|---|---|
| Books | 115,432 | 21,661 | 137,093 | $35.34 | $4,844,867 |
| Books, periodicals (for Exchange and Gift) | 99,739 | 38,990 | 138,729 | 3.00 | 416,187 |
| Periodicals | 208,573 | 270,131 | 478,704 | 6.94 | 3,322,206 |
| Motion Pictures | 4,126 | 334 | 4,460 | [1] | 1,177,440 |
| Music | 36,864 | 53 | 36,917 | 22.00 | 812,174 |
| Sound Recordings | 10,900 | 485 | 11,385 | 10.00 | 113,850 |
| Maps | 3,036 | 1,460 | 4,496 | 26.00 | 116,896 |
| Prints, pictures, and works of art | 1,232 | 90 | 1,322 | 18.00 | 23,796 |
| Total | 479,902 | 333,204 | 813,106 | | $10,827,416 |

[1]

| | | | |
|---|---|---|---|
| 3,568 | Video @ $ 80.00 | = $ | 285,440 |
| 892 | Films @ $1,000.00 | = $ | 892,000 |
| 4,460 | | | $1,177,440 |

*Financial Statement of Royalty Fees for Compulsory Licenses for Secondary Transmissions by Cable Systems for Calendar Year 1989*

| | | |
|---|---|---|
| Royalty fees deposited | $204,460,226.87 | |
| Interest income paid on investments | 13,788,724.52 | |
| Gain of matured securities | 1,631,984.34 | |
| Transfers | 1,663.00 | |
| | | $219,882,598.73 |
| Less: Operating costs | $739,734.00 | |
| Refunds issued | 426,849.55 | |
| Cost of investments | 213,235,975.94 | |
| Cost of initial investments | 5,087,663.27 | |
| Copyright Royalty Tribunal expense | 200,000.00 | |
| Transfers | 60,611.32 | |
| | | $219,750,834.08 |
| Balance as of September 30, 1990 | | $ 131,764.65 |
| Face amount of securities due 10/1/90 | | 67,550,000.00 |
| Estimated interest income due 10/1/90 | | 2,870,875.00 |
| Face amount of securities due 12/6/90 | | 149,450,000.00 |
| Less: Pending Refunds | | 154,245.29 |
| Cable royalty fees for calendar year 1989 available for distribution by the Copyright Royalty Tribunal | | $219,848,394.36 |

*Financial Statement of Royalty Fees for Compulsory Licenses for Coin-Operated Players (Jukeboxes) for Calendar Year 1989*

| | | |
|---|---|---|
| Royalty fees deposited | $6,227,527.25 | |
| Interest income paid on investments | 701,158.53 | |
| Gain of matured securities | 13,523.46 | |
| | | $6,942,209.24 |
| Less: Operating costs | $497,883.00 | |
| Refunds issued | 8,542.50 | |
| Cost of investments | 6,380,881.35 | |
| Cost of initial investments | 209.06 | |
| Copyright Royalty Tribunal expense | 20,000.00 | |
| | | $6,907,515.91 |
| Balance as of September 30, 1990 | | 34,693.33 |
| Estimated interest income due 10/1/90 | | 266,390.00 |
| Face amount of securities due 10/1/90 | | 6,268,000.00 |
| Less: Operating costs pending | | 100,000.00 |
| Jukebox royalty fees for calendar year 1989 available for distribution by the Copyright Royalty Tribunal | | $6,469,083.33 |

*Financial Statement of Royalty Fees for Statutory Licenses for Secondary Transmissions by Satellite Carriers for Calendar Year 1989*

| | | |
|---|---|---|
| Royalty fees deposited | $2,423,549.95 | |
| Interest income paid on investments | 140,225.01 | |
| Gain of matured securities | 9,462.96 | |
| Transfers | 22.55 | |
| | | $2,573,260.47 |
| Less: Operating costs | $ 51,700.00 | |
| Cost of investments | 2,487,401.21 | |
| Cost of initial investments | 7,214.10 | |
| Copyright Royalty Tribunal expense | 23,000.00 | |
| Transfers | 15.00 | |
| | | $2,569,330.31 |
| Balance as of September 30, 1990 | | $ 3,930.16 |
| Face amount of securities due 1/31/90 | | 2,465,000.00 |
| Estimated interest income due 1/31/90 | | 107,325.00 |
| Satellite carrier royalty fees for calendar year 1989 available for distribution by the Copyright Royalty Tribunal | | $2,576,255.16 |

## *Copyright Registrations, 1790–1990*

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

## *Copyright Registrations, 1790–1990*

| | District Courts [1] | Library of Congress [2] | Patent Office [3] | | | Total |
|---|---|---|---|---|---|---|
| | | | Labels | Prints | Total | |
| 1915 | | 115,193 | 762 | 321 | 1,083 | 116,276 |
| 1916 | | 115,967 | 833 | 402 | 1,235 | 117,202 |
| 1917 | | 111,438 | 781 | 342 | 1,123 | 112,561 |
| 1918 | | 106,728 | 516 | 192 | 708 | 107,436 |
| 1919 | | 113,003 | 572 | 196 | 768 | 113,771 |
| 1920 | | 126,562 | 622 | 158 | 780 | 127,342 |
| 1921 | | 135,280 | 1,118 | 367 | 1,485 | 136,765 |
| 1922 | | 138,633 | 1,560 | 541 | 2,101 | 140,734 |
| 1923 | | 148,946 | 1,549 | 592 | 2,141 | 151,087 |
| 1924 | | 162,694 | 1,350 | 666 | 2,016 | 164,710 |
| 1925 | | 165,848 | 1,400 | 615 | 2,015 | 167,863 |
| 1926 | | 177,635 | 1,676 | 868 | 2,544 | 180,179 |
| 1927 | | 184,000 | 1,782 | 1,074 | 2,856 | 186,856 |
| 1928 | | 193,914 | 1,857 | 944 | 2,801 | 196,715 |
| 1929 | | 161,959 | 1,774 | 933 | 2,707 | 164,666 |
| 1930 | | 172,792 | 1,610 | 723 | 2,333 | 175,125 |
| 1931 | | 164,642 | 1,787 | 678 | 2,465 | 167,107 |
| 1932 | | 151,735 | 1,492 | 483 | 1,975 | 153,710 |
| 1933 | | 137,424 | 1,458 | 479 | 1,937 | 139,361 |
| 1934 | | 139,047 | 1,635 | 535 | 2,170 | 141,217 |
| 1935 | | 142,031 | 1,908 | 500 | 2,408 | 144,439 |
| 1936 | | 156,962 | 1,787 | 519 | 2,306 | 159,268 |
| 1937 | | 154,424 | 1,955 | 551 | 2,506 | 156,930 |
| 1938 | | 166,248 | 1,806 | 609 | 2,415 | 168,663 |
| 1939 | | 173,135 | 1,770 | 545 | 2,315 | 175,450 |
| 1940 | | 176,997 | 1,856 | 614 | 2,470 | 179,467 |
| 1941 | | 180,647 | | | | 180,647 |
| 1942 | | 182,232 | | | | 182,232 |
| 1943 | | 160,789 | | | | 160,789 |
| 1944 | | 169,269 | | | | 169,269 |
| 1945 | | 178,848 | | | | 178,848 |
| 1946 | | 202,144 | | | | 202,144 |
| 1947 | | 230,215 | | | | 230,215 |
| 1948 | | 238,121 | | | | 238,121 |
| 1949 | | 201,190 | | | | 201,190 |
| 1950 | | 210,564 | | | | 210,564 |
| 1951 | | 200,354 | | | | 200,354 |
| 1952 | | 203,705 | | | | 203,705 |
| 1953 | | 218,506 | | | | 218,506 |
| 1954 | | 222,665 | | | | 222,665 |
| 1955 | | 224,732 | | | | 224,732 |
| 1956 | | 224,908 | | | | 224,908 |
| 1957 | | 225,807 | | | | 225,807 |
| 1958 | | 238,935 | | | | 238,935 |
| 1959 | | 241,735 | | | | 241,735 |
| 1960 | | 243,926 | | | | 243,926 |

## *Copyright Registrations, 1790–1990*

| | District Courts [1] | Library of Congress [2] | Patent Office [3] | | | Total |
|---|---|---|---|---|---|---|
| | | | Labels | Prints | Total | |
| 1961 | | 247,014 | | | | 247,014 |
| 1962 | | 254,776 | | | | 254,776 |
| 1963 | | 264,845 | | | | 264,845 |
| 1964 | | 278,987 | | | | 278,987 |
| 1965 | | 293,617 | | | | 293,617 |
| 1966 | | 286,866 | | | | 286,866 |
| 1967 | | 294,406 | | | | 294,406 |
| 1968 | | 303,451 | | | | 303,451 |
| 1969 | | 301,258 | | | | 301,258 |
| 1970 | | 316,466 | | | | 316,466 |
| 1971 | | 329,696 | | | | 329,696 |
| 1972 | | 344,574 | | | | 344,574 |
| 1973 | | 353,648 | | | | 353,648 |
| 1974 | | 372,832 | | | | 372,832 |
| 1975 | | 401,274 | | | | 401,274 |
| 1976 | | 410,969 | | | | 410,969 |
| 1976 | Transitional qtr. [4] | 108,762 | | | | 108,762 |
| 1977 | | 452,702 | | | | 452,702 |
| 1978 | | [5] 331,942 | | | | [5] 331,942 |
| 1979 | | 429,004 | | | | 429,004 |
| 1980 | | 464,743 | | | | 464,743 |
| 1981 | | 471,178 | | | | 471,178 |
| 1982 | | 468,149 | | | | 468,149 |
| 1983 | | 488,256 | | | | 488,256 |
| 1984 | | 502,628 | | | | 502,628 |
| 1985 | | 539,165 | | | | 539,165 |
| 1986 | | 560,212 | | | | 560,212 |
| 1987 | | 581,276 | | | | 581,276 |
| 1988 | | 565,801 | | | | 565,801 |
| 1989 | | 611,328 | | | | 611,328 |
| 1990 | | 643,602 | | | | 643,602 |
| Total | 150,000 | 23,104,902 | 55,348 | 18,098 | 73,446 | 23,328,348 |

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

[2] Registrations made in the Library of Congress under the Librarian, calendar years 1870–1897 (source: *Annual Reports of the Librarian*). Registrations made in the Copyright Office under the Register of Copyrights, fiscal years 1898–1971 (source: *Annual Reports of the Register*).

[3] Labels registered in Patent Office, 1875–1940; Prints registered in Patent Office, 1893–1940 (source: memorandum from Patent Office, dated Feb. 13, 1958, based on official reports and computations).

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

[5] Reflects changes in reporting procedure.