Questions and Answers-Copyright Column-When a library creates a Website, is the HTML code protected by copyright?

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Legally Speaking
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by students enrolled in that course. The Senate version did not include performances by non-profit libraries. At one point the House version did include performances by non-profit libraries; however, that language was removed from the bill during committee markup. For-profit institutions, even if accredited, must pay royalties for a license.

The TEACH Act also amends section 106 to allow digital transmissions to be made to members of the class. Section 106 states that the author has the exclusive right to control copies of his or her work. However, every time you create a digital version of a document or performance, you are making a copy. The TEACH Act allows educators to make a copy in order to transmit the work to their distance education students. In order to claim the protections of the TEACH Act, the non-profit accredited educational institution must be distributing the document or performance for educational purposes. The transmission must be only to those students who are enrolled in the class, so Websites should be password protected. Finally, to the extent possible, the institutions should attempt to make sure that the materials are not transmitted any further by the students. This provision would be satisfied by providing the students with Web pages which may be viewed but not printed or downloaded.

If passed, the TEACH Act would allow accredited non-profit educational institutions to do in their distance education programs what they can do in their on-campus instruction. Rather than being a new type of education, the Internet will indeed be simply a new transmission method for traditional education.

Educators are becoming less bound by distance, and the TEACH Act helps to ease the restrictions. Publishers and authors will know that their work is being distributed only to students in accredited non-profit educational institutions for educational purposes. Educators will be able to transmit some performances for their distance education classes, and students will be able to obtain a quality education via the Internet. By working together on the language of the TEACH Act, everybody wins. And as Ecclesiastes states, there truly is nothing new under the sun.

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Questions & Answers — Copyright Column

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QUESTION: A special education teacher in my school has asked whether she can audiotype a book being studied in class for a child with learning disabilities. The library wants to purchase the tape, but a thorough search has not revealed any source from which it is available. Since it is unavailable for purchase, may the library and school make its own audiotype for this child?

ANSWER: Under section 108 of the Copyright Act, the answer is no, but under the Americans with Disabilities Act, the answer is yes. In the legislative history that accompanied the Act, specifically in the House Report, in the discussion on fair use under section 107, there is a statement about making copies of works in special forms for blind persons. The House Report mentions the Library of Congress program for making such copies but also states that making a single copy for blind persons would properly be a fair use under section 107. By analogy, making an audiotype for the child should also be fair use. Such tapes should not then be added to the library collection without permission, however.

QUESTION: When a library creates a Website, is the HTML code protected by copyright? There appears to be some disagreement among the experts on this matter.

ANSWER: No, it is not. The underlying work is what is protected, for example, the literary work, musical work, audiovisual work, etc., but not the HTML code. Section 102(a) of the Copyright Act details the eight categories of works that may be protected by copyright; while it is possible that other types of works might also be protected, a judgment would be made based on the originality/creativity requirement of the Act. Although HTML code is very useful, the code underlying a Webpage is not copyrightable although the page itself is as an audiovisual work if it meets the requirements of originality/creativity, etc.

QUESTION: As an academic medical library, we are often asked to provide access to full-text journals to other libraries located in federal buildings on our campus. The full-text journals are free to the library with print subscriptions. Would this be a copyright violation?

ANSWER: Not a copyright violation, but whether there is some type of liability for the library depends on the license. License agreements are contracts governed by state contract law instead of federal copyright. If a license for the online journals says restricted to the school’s students, faculty and staff, then it violates the contract to allow the federal employees to use the materials. If not, then it is permissible, but each license agreement would have to be consulted for that title or group of titles.

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And They Were There — Reports of Meetings

XI. Transborder Library Forum, 2001 and IUG Meets in Santa Clara

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XI. Transborder Library Forum, 2001
“World Information: knowledge without boundaries”
Hermosillo, Sonora, Mexico, March 15-17.

Report by Elizabeth N. Steinhagen
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Titled “World Information: knowledge without boundaries,” this year’s Transborder Library Forum was held in Hermosillo, Sonora, Mexico, March 15-17. Hosted jointly by the Universidad de Sonora (UNISON), and the Food and Development Research Center (CIAD), the event again attracted approximately 300 professionals, as in previous years, from mostly border states, with a number of representatives of libraries from other areas of Mexico, the U.S., and Canada. The theme was globalization, a concept that is here to stay and which has had a profound impact on how things are done today. The outcome of newer and better technologies in the realm of information exchange has revolutionized our way of seeking knowledge that may be generated thousands of miles away, anywhere in the world.

For the above reasons, the organizers of this XI. FORO envisioned an event that would present more than a physical space where librarians from our two sister countries, the United States and Mexico, could exchange experiences and share ideas about common problems not just relevant to border areas, but where they could also begin to brainstorm on ways to improve on daily tasks for the ultimate benefit of local users as well as those from remote areas.

From its simple beginnings in the late 1980s, when librarians from Arizona and Sonora realized the need to improve communication between libraries in the border states, attendance and scope have increased considerably. Simultaneous interpretation at all FOROs has eliminated language barriers by providing each attendant with the opportunity to participate actively, while at the same time the number of bilingual librarians able to take part in the discussions regardless of language appears also to have increased. Each FORO has been organized by an extraordinary and dedicated team of volunteers from the host site, and so far, the event has remained the sole responsibility — and sometimes headache — of the local hosts. However, while the informality of the group, the lack of structure, of dues, and of membership obligations, remain one of the major attractions, questions arise at the close of XI. FORO in 2000, about the continuity of these gatherings. Indeed, after lengthy discussions at the end of the recent XI. FORO, those present decided to look into the feasibility of coming up with some sort of structure that would provide the group with at least a semi-formal identity and standing. While all participants continue to cherish the informality and the social interactions, it is hoped that the group they elected to study and proposed new status will arrive at a solution that ensures the ongoing existence of these meetings.

These transborder conferences have been growing in importance and relevance as libraries and their users access information beyond their physical and geographical borders. There was ample evidence for it throughout the 3-day program that brought together practitioners from all areas of librarianship. It was preceded by a number of workshops presented by librarians from Mexico and the United States, which included a session on searching MEDLINE and MEDLINEplus for biomedical and consumer health information; a workshop on basic serials cataloging, based on the CONSER Serials Cataloging Cooperative Training Program (SCCTP); a session on developing a library accessible to the community through design, attitude and technology; and another on modern and general archives.

At the close of the opening ceremonies, the two keynote speakers offered interesting views of the present situation. Estela Morales C. of the Universidad Nacional Autónoma de México spoke about globalization and the importance of making more local information available to all users.

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