Questions & Answers -- Copyright Column

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Notes


5. I am purposely not using a ® or TM symbol here because I do not believe that the trademark claim is valid.


13. id.


19. This information is taken directly from the Opinion of the Dastar Court. Dastar at note 1.


22. 34 Fed. Appx. 312, 314. This language from the 9th Circuit was also quoted in the Supreme Court opinion.

23. This language comes from the Supreme Court decision, which is quoting the 9th Circuit opinion. The Supreme Court also referenced the Brief for Respondents 8, 11.


Questions & Answers

Copyright Column

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QUESTION: A library is a for-profit company owns issues of a journal title published prior to 1923 and wants to scan articles from these issues. May it do so without being concerned about copyright? ANSWER: Yes, if the journals were published in the United States before 1923, they are in the public domain. This means that anyone may reproduce the articles, even for public consumption. Thus, copying of these journals for the library presents no copyright problem.

QUESTION: How are international publications/covered under US law? Are they protected? ANSWER: The first determination is what is meant by "international publications?" Are these publications by international organization such as the United Nations or are they works published in a foreign country? If the work is published by the United Nations, any of its agencies or the Organization of American States, it is subject to protection under US copyright law according to section 104(b)(5) of the Copyright Act. Works by other international organizations are not subject to US copyright.

Foreign works are protected under US copyright if they are published in a country that is a party to a copyright treaty to which the United States is a signatory. See section 104(b)(2). This would include all of the signatory countries to the Berne Convention or any bilateral or multilateral treaty to which the United States is a party. Additionally, under section 104(b)(6), the President may by proclamation extend US copyright to works published in another country if that nation extends copyright to US authors on the same basis as it extends to its own authors. continued on page 73
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