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Electronic Rights Management

by **Isabella Hinds** (Director of Professional Relations, Copyright Clearance Center, Inc.)

As the digital revolution draws closer, real solutions to copyright management questions are being proposed, vetted, debated, discarded; with each round of discussion, the copyright community — creators, publishers, librarians, and all the intermediaries in the information chain — gets closer to a workable solution.

Answers to the copyright management questions in a digital age may be within our grasp.

In this and earlier issues of

Against the Grain, standards is a common thread, and certainly standards are in the making. The organizations, national and international, concerned with such issues have become extraordinarily active. To identify a few such efforts: the **Association of American Publishers** through its **Enabling Technologies Committee** has identified and promulgated the concept of the **Digital Object Identifier**. This parallels conceptually, the "handle" referred to in the **CORD's (Copyright Office Registration and Deposit System)** project of the **Library of Congress**, developed in collaboration with the **Coalition for National Research Initiatives**. Standards efforts are also moving decidedly ahead in Europe. Such groups as **Imprimatur** and **CISAC** which have focused initially on standards development in other kinds of media are working diligently to entice other rights holders into their systems for identification and transmission of information. The strand that runs through all these efforts is the recognition that in digital form all intellectual property becomes bits and the drive is toward a common, or at least compatible, scheme for identifying objects and managing the rights associated with those objects on a global basis.

It is worth noting the key role of the creator community in several of these initiatives; for example, the coordinating partner for **IMPRIMATUR** (Intellectual Multimedia Property Rights Model and Terminology for Universal Reference), a three year effort funded by the European Commission, is the Author's Licensing and Collecting Society, Ltd. These emerging efforts also cast established players in new roles. For example, CCC, known for photocopy licensing of library works, serves as the liaison to IMPRIMATUR on behalf of the Interactive Multimedia Association in the US. Changing systems require changing roles.

Meanwhile, major technology companies are entering the rights management arena:

IBM, **Xerox**, and new players such as the California based **EPR**. **Mark Stefic** of Xerox's Palo Alto Research Center has widely circulated his views on trusted systems: his vision can be further studied in a new book from MIT Press, *Internet Dreams*. Well received by publishers when he was a featured speaker

"Traditional publishers and creators are beginning to acquire essential knowledge about technology..."

at the Annual meeting of the Association of American Publisher's PSP division, Stefic's ideas have faced more challenges from his technology colleagues. Just as electronic rights management is evolving in an era of media convergence, there is also a need for industry convergence. Traditional publishers and cre-

ators are beginning to acquire essential knowledge about technology so they can fully understand, evaluate, and share new technologies to meet their needs.

The established organizations, public, private, and quasi-public, entering this arena along with the newly formed consortia emphasize the collaborative and exacting political process through which standards may be established. Critical to these efforts are the trusted

"...[The] marketplace must be first organized and nurtured before competition can truly begin."

position such organizations hold with their constituencies and the deep understanding they have of the issues over time. The challenge for these efforts is to leverage that knowledge and create a sense of urgency among their constituents. The risk these efforts force involve becoming captives of their knowledge, attempting to recreate the old system in digital garb, rather than transforming core principles

of copyright through and for a digital age.

The technology vendors, with their very deep pockets and powerful market position are counting on the market to speak. Their risk lies in overreacting, in assuming technology allows them to master 200 years of copyright complexity. In fact, the technology companies have come together under the auspices of the Information Industry Association and the Copyright Clearance Center as the **Electronic Rights Management Consortium**. This consortium seems to underscore the reality that a marketplace must be first organized and nurtured before competition can truly begin.

Whichever approach prevails, systems for copyright management must address the following issues:

- the content must be separate but inseparable from the "handle", i.e., the information that drives the permission;

- the rights management information must address the hierarchy of the material (for example, rules for the text must be separable from rules for the illustrations);

- rights ownership must be current and traceable over time;

- the time value of information must be accommodated (for example, a newsletter article is generally worth a great deal more and requires more stringent protection in its first 24 hours than its subsequent 24 months);

- identify and authenticate the user; the identity may influence the rights holder's willingness to grant permission, the price to be charged, and the uses permissible;

- accommodation of the user's privacy and freedom of access (since it is so easy to know who I am, do you have, therefore, the right to refuse me permission for certain uses?)

- the evolving understanding of the structure and segmentation of information; it is exceedingly difficult to think in totally new ways about the structure of information beyond the traditional page, the article, the chapter, but increasingly we must;

- a business model which addresses the needs of authors and creators as well as publishers and users.

Having laid out the complex parameters essential for rights management, it is equally imperative that such systems must in the end hide the complexity of rights management from the users. The level of security must be

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we could have wished," Krug explained. "The ALA will now make history."¹⁶ Krug expects the case to go to the Supreme Court by January 1997.

The three judges recognized the case as a "fast track" case and immersed themselves in it, Krug told *Against the Grain*. They even learned how to use the Internet to lend credibility to their decisions as being valid and appropriate. "The judges proved their interest in doing the right thing and their interest in ALA by learning how to use the Internet," Krug stated.¹⁷ John Perry Barlow, co-founder of the Electronic Frontier Foundation and spokesperson at the ALA's annual meeting in New York City this past July, told *Against the Grain* that he was "grateful that we have a part of our political system that is not democratic" and explained, "Because of the pervasive impact of television, we have government by hallucinating mind, which means that many people are insisting that their congressmen pass laws to solve problems that don't exist. The perceived flow of pornography in cyberspace is an example. That issue is basically irrelevant, but so many people are willing to sacrifice their civil liberties to get rid of it. Fortunately, we have judges in Philadelphia who are not running for office and who

were willing to take a look at the situation rationally and toss out the bizarre anomaly known as the CDA."¹⁸

Barlow decried government sponsored legislation like the CDA as "savagely anti Internet" and predicted that "those government efforts are going to put libraries at the front lines of the coming battle in cyberspace. I see libraries as the guerrilla fighters who will lead the fight to maintain freedom of expression in cyberspace."¹⁹

Betty J. Turock, President of the American Library Association, in comments made after the defeat of the CDA, sums up the role of libraries as advocates on behalf of "public interest in national legislation and public policy." Through the signing of the Telecommunications Act of 1996, libraries are scheduled to receive special telecommunications discounts and have been given the designation 'universal service providers.'²⁰ Turock goes on to explain that: "A challenging period is ahead as we attempt to make the definition of universal service and the special discounted rates [which affect the cost of access] meaningful in infrastructure implementation ... the promises and pitfalls of the electronic 21st century are known only to a few." She concludes that the job of librarians' is to make those promises and pitfalls "better known, so that the public will help us advance just, equitable, affordable access, and to inform Americans about what's at stake."²¹ Continued participation in such group activities like the 25-member Citizen Internet Empowerment Coalition (which became the name of the plaintiffs' group that challenge the CDA) is one way that librarians can "help develop a national information infrastructure in the public interest" which is essentially what the challenge to the Communications Decency Act was about.²²

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Reference Books Bulletin. Linda Albright is Assistant Professor and Head of the Acquisitions Department, Dacus Library, Winthrop University.

Endnotes

¹Ron Chepesiuk and Jeff Rosen, "Beyond Cyber Space," *Fifty Years of Modern Computing, Faircount International Media*, 1996, p. 109

²Ibid. p. 109

³*Publishers Weekly*, Feb. 12, 1996, p. 12.

⁴"Libraries and Communications Decency Act," *Cognotes*, July 7, 1996, p. 6A.

⁵Interview with Authors, July 19, 1996.

⁶"Decency and the Internet," *Newsletter on Intellectual Freedom*, September 1995, p. 125

⁷"Libraries and the Communications Decency Act," *Cognotes*, July 7, 1996, p. 6A

⁸"Decency and the Internet," *Newsletter on Intellectual Freedom*, September 1995, p. 125.

⁹"Telecommunications Act Includes Decency Clause," *Newsletter on Intellectual Freedom*, March 1996, p. 35

¹⁰"Decency and the Internet," *Newsletter on Intellectual Freedom*, September 1995, p. 123

¹¹"Focus on the Internet: Excerpts from a Memorandum of Law in Internet 'Indecency' Suit," *Newsletter on Intellectual Freedom*, May 1996, p. 73.

¹²Ibid.

¹³"Libraries and the Communications Decency Act," *Cognotes*, July 7, 1996, p. 6A.

¹⁴Ibid.

¹⁵*Library Journal*, March 15, 1995 p. 31

¹⁶Interview with authors, July 19, 1996.

¹⁷Ibid.

¹⁸Interview with authors, July 9, 1996.

¹⁹Ibid.

²⁰Betty J. Turock, "Advocating the Unfettered Electronic Access," *American Libraries*, June/July 1996, p.34.

²¹Ibid.

²²Ibid.

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appropriate to the value of the information. Nor can the rights management system substantially disrupt productivity possibilities of digital information. Flexibility and productivity are at the heart of the possibilities of digital information.

It has never been more imperative to the future of scholarly publishing that publishers, scholars, and librarians keep on talking, talking and talking to the technology vendors. All technology is developed to "specifications". The scholarly community must retain control

over these "specifications". We must also learn to listen: and understand the technology well enough to share it to the purposes that bring their community together in the first place.

So, some advice:

Think "function": What are the core functions to be performed? How can they be streamlined? If we attempt to replicate every task and burden of paper copyright management, we will never finish: at least not cost effectively!

Think "80/20": Eventually rights management schemes will have to accommodate every "what if", but at the outset they must

manage the most central, most common types of material and types of usage. We need to get started: in the present environment, more users are becoming skilled at avoiding copyright management than at embracing new approaches.

Think "simple": Complexity slows performance, both human and computing.

Many of us deeply involved in these issues on a daily basis have come to accept our fascinating, frustrating, and often wonderful fate. We have, fallen under collectively one of the oldest curses of all: "May you live in interesting times." So be it.