September 2000

Copyright Questions and Answers-If a CD-Rom becomes damaged and unplayable may the library replace it by making another copy from the original or making a copy from another library's original?

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Recommended Citation

Gasaway, Laura N.; Montgomery, Jack G.; and Strauch, Bruce (2000) "Copyright Questions and Answers-If a CD-Rom becomes damaged and unplayable may the library replace it by making another copy from the original or making a copy from another library's original?," *Against the Grain*: Vol. 12: Iss. 4, Article 24.

DOI: <https://doi.org/10.7771/2380-176X.3266>

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Questions and Answers — Copyright Column

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QUESTION: *In a law firm, the medical malpractice group relies upon medical articles from experts and asks the library to provide copies. The library orders articles from a document supplier that pays copyright royalties and charges them to the firm as a part of its fee. Sometimes, an article ordered for one case might also be useful in another pending case. The lawyers and nurses who work with the articles would like to keep the original in the first case file, and make another copy for the second case file. May a second copy be made for a new specific case or does the library need to request a new copy each time one is needed?*

ANSWER: When a library obtains a copy of an article from a document delivery service and pays the royalties for that copy, the library may use that copy for multiple purposes such as for multiple pending cases. Use and reproduction are different, however. Reproducing that article for another case file means that additional royalties should be paid since the firm lawfully acquired only one copy of the article.

QUESTION: *Are there any copyright rules about corporate employees donating personal or professional association journals to the private corporate library?*

ANSWER: Generally anyone who has lawfully acquired a copy of a copyrighted work may dispose of that copy even by donating it to a corporate library. The real question is whether the library can then use journal just as it does a purchased subscription. If the publisher offers only one subscription rate for that journal then there should be no problem, but if the publisher has a separate institutional rate for the journal, then, the library really should not use that donated subscription except as a backup copy for binding. It should subscribe at the institutional rate that permits multiple readers, etc.

QUESTION: *Is a library permitted to make an archival copy of a music CD, CD-ROM software or the CD-ROM that comes with books? If so, should the library circulate the copy or the original work?*

ANSWER: The statute permits general archival copying only of computer programs but not of other works. Section 117

of the Copyright Act states that the owner of a copy of a computer program may make another copy of that program in two instances: (1) when it is a necessary step to use that program on a particular computer, and (2) when the copy is for archival purposes. To duplicate any other type of work for archival purposes, the requirements of Section 108(b)(c) and (h) must be followed. Regardless of whether the library circulates either the original or the copy (but not both), the library must place a warning label on the software package in accordance with Section 109(b)(2)(A).

QUESTION: *If a CD-ROM becomes damaged and unplayable, may the library replace it by making another copy from the original or making a copy from another library's original?*

ANSWER: Assume that the CD is a published work. Under Section 108(c), the library may reproduce a lost, stolen, deteriorating, damaged or obsolete work only if the library first determines by reasonable investigation that an unused copy cannot be obtained at a fair price. After that, the library may make another copy from the original or obtain a reproduction from another library.

QUESTION: *What is the public policy reason for awarding copyright to authors of letters? For example, if a famous author sends a letter to breathless admirer or even a lover, why does the recipient of the letter not own the copyright? Could the letter not be considered a gift to the recipient?*

ANSWER: Authorship is referred to in the U.S. Constitution, in Article I, section 8, clause 8, which states that Congress may enact legislation to provide exclusive rights to authors for their writings. A letter is clearly a writing and the writer of the article is the author. In most types of works, when the author creates the work, it is then reproduced in multiple copies such as with books, articles, music recordings, etc., but not always. Major exceptions are works of

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art and private letters where only one copy may exist.

There is a difference between the copy and the copyright that is often confused by ordinary folks and by libraries which hold manuscript collections. The author of the letter owns the copyright in the literary work, that is the letter; the recipient of the letter owns the only copy of the letter, or the recipient may have donated the original copy of the letter to a library or museum. The institution seldom actually holds the copyright, but it may still restrict access to the copy it holds. In exchange for the right of access, the institution may restrict the types of use to which the letter may be put. Often, the donors of the letter (who may be either the author or the recipient) may put restrictions on the availability or use of that letter to which the institution must agree at the time of transfer.

There may not be a clear public policy reason for treating letters as works of authorship rather than as gifts to the recipient, but clearly the law has considered them to be literary works for many years. Perhaps this is because even early works of biography included letters by the subject of the work and those biographical works are also literary works.

Issues such as invasion of privacy also must be considered with letters since letters were intended as private correspondence between two parties. One could argue that either party should have the right to make the letters public. Under copyright, however, the law protects the right of first publication so that the author or his or her heirs have the first right to publish the text of letters for the duration of the copyright. 🌿

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the case involved analysis of Irving's writings and statements. The final decision was that Lipstadt's statements were not defamation because they were true. According to the judge, "The charges which I have found to be substantially true include the charges that Irving has for his own ideological reasons persistently and deliberately misrepresented and manipulated historical evidence; that for the same reasons he has portrayed Hitler in an unwarrantedly favorable light, principally in relation to his attitude towards and responsibility for the treatment of the Jews; that he is an active Holocaust denier; that he is anti-semitic and racist and that he associates with right wing extremists who promote neo-Nazism."²⁴

So what have we learned today? The implication for writers is that you are responsible for what you write. Publishers are responsible for determining whether their authors are making potentially defamatory statements. If false statements constitute *libel per se*, the plaintiff doesn't have to show actual damages. So publishers need to be aware of what authors are writing.

Of course, a public figure or elected official must show that not only was the statement false, but it was made with actual malice. Otherwise he or she will not win their defamation suit. However, publishers still need to be careful. Just remember that truth is always an absolute defense. And although libel makes publishers squirm, don't just sweep it under the table. By having a program to detect potentially defamatory statements early, publishers can head off lawsuits. Remember: an ounce of prevention is worth a pound of cure. 🌿

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to get together to talk. Just as it is difficult to imagine the concept of *family* independent of the home, it is near-impossible to imagine *community* independent of town square or the local pub. ... In the absence of walkable public places — streets, squares, and parks, the *public realm* — people of diverse ages, races, and beliefs are unlikely to meet and talk."

One story the authors tell captures the absurdity of designing without placing enough emphasis on the impact the community and on individuals. They describe a town in which the firefighters demanded job security in the form of large trucks, which require large numbers of staff to drive and maintain. Such trucks meant streets had to be wide to accommodate them, which in turn meant that the people in the town were dwarfed by the roads, cars moved too fast, and walking was discouraged. Apparently, designing roads to be excessively wide to accommodate the largest scale emergency vehicle is not unusual. The authors conclude that "one of the most important aspects of our new towns is being shaped around an extremely unlikely emergency, with the result that they function inadequately in nonemergency situations." Ironically, there are more accidents on these streets designed to accommodate emergency vehicles: "wide streets lead to an increased number of traffic accidents, since people drive faster on them."

And they don't simply drive faster. They drive *more*. The wider the street or highway becomes, the more people drive on it, in a phenomenon called 'induced traffic,' another of this book's surprising revelations. It appears that for years experts (but not the *right* experts) have known that widening a road solves a traffic problem only temporarily, since additional traffic inevitably arrives to fill the road to capacity again. But because engineers are in charge of roads, and their sole emphasis is on efficiency of traffic movement, the beat goes on. Once again, our lives are being organized — and our communities defined by — the needs of cars and trucks, not people.

The authors do provide ideas for how to change the trends, and some of them, I've noted in the mainstream press, are catching. Taming the automobile and creating a pedestrian-friendly environment is certainly near the top of their list. They also have creative ideas for attracting retail space back to towns and inner cities, away from malls. They have ideas for encouraging mixed use devel-

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among scholars, is not necessary to explain Jupiter to a general audience, and such detail is only tangentially related to the cult of Jupiter in Britain six centuries later. At the same time the author quotes lengthy passages in Latin without offering translations, making much of her work inaccessible to all but the expert. More troubling problems appear as Irby-Massie becomes too focused on Britain, and fails to consider larger trends throughout the Roman Empire. Thus she concludes that the large number of dedications to the emperor **Septimius Severus** found in Britain indicates that "the troops and officers in Britain felt obligated to demonstrate their loyalty to Severus after the civil wars of the 190s" (p.203). This would be a reasonable conclusion were the trend limited to Britain alone. However, the Severan period has furnished an extraordinary number of inscriptions empire-wide. Changes in epigraphic habit and chances of survival are better explanations for the British dedications.

The strength of the book, and an aspect that may warrant its purchase, is the annotated catalog of inscriptions

presented in the second part. The author has brought together epigraphic evidence for religious cults in Roman Britain from scattered sources that are available only at top research libraries (**Corpus Inscriptionum Latinarum**, **Roman Inscriptions of Britain**, and **Corpus Signorum Imperii Romani**). Furthermore, she has incorporated other evidence published in the *Journal of Roman Studies and Britannia*. The result is a useful reference work for scholars researching a particular cult in Britain. It will reduce the time and frustration of any future study. The collection is easy to use with a table of contents summarizing the entries. References to Irby-Massie's catalog numbers are included in the general index to the book. Scholars will likely skip the first part of the book and use the evidence contained in the second section to draw their own conclusions. Catalogs and indices of this type are much needed in many areas of Classical Studies. Some researchers are certain to thank Irby-Massie for her contribution. 🌿