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The Digital Dilemma; Intellectual Property in the Information Age

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This **Special Report of *Against the Grain*** offers five perspectives about the recent and important **National Academy of Sciences** study, *The Digital Dilemma*. For close to two years, a diverse group of experts pondered the societal challenges posed by the development and rapid evolution of the Internet, to create a thoughtful analysis of the issues and some possible approaches to them. The pieces herein include a view from the **NAS** staff who organized the study (**Alan Inouye**); from three members (**Karen Hunter**, a publisher; **Clifford Lynch**, a technology specialist and educator; and **Bernard Sorkin**, an attorney for the publishing industry) as well as from one non-member (**Sarah Sully**, an attorney in private practice).

With the twin revolutions embodied in the microcomputer and the In-

ternet, information has begun to move among people more rapidly than ever. The ease of copying undermines old rules and practices designed to turn words into commodities and to transform intellect into property. All those who create, produce, distribute, and read information in electronic form are caught by the pressures of old and new, seeking freedom and movement for intellect, but remembering also a mission to guard and transmit, all within a framework of laws. *The Digital Dilemma* was commissioned by the National Science Foundation and carried out by the National Research Council of the National Academy of Science and comes with suitably blue-ribbon credentials. It captures the heart of the dilemma—the need to foster movement and dissemination of information and the need to preserve and develop means of control and reward. It must be a good report, because readers have differed sharply over

whether it is too pro-user (and pro-library) or whether it strikes a Solomonic balance between the communities of interests.

At its core is the complex and ironic position of intellectual property law, seeing restraint and control as the means of facilitating dissemination and freedom. No debates have been resolved, but the issues have rarely been outlined with such clarity and absence of polemic and rancor. The volume is an excellent handbook for faculty, librarians, and administrations seeking to understand the choices they will need to make as universities become both producers and consumers of new kinds of intellectual property in a new kind of information economy.

We hope that this array of articles stimulates your thinking and enriches your perspectives about copyright in this exciting digital age. 🌱

Origins of The Digital Dilemma

by **Alan S. Inouye**¹ (Computer Science and Telecommunications Board, The National Academies) <ainouye@nas.edu>

The revolution in digital information and digital technologies continues apace. Commonplace activities such as buying a book, learning the day's news, or obtaining information from the federal government are carried out increasingly on the World Wide Web. Traditional media such as newspapers converted to digital form can be made more widely available with greatly augmented capabilities. But the digital revolution also enables new ways for providing information services. As an example, consider auction Websites, which enable auctions on a national scale for everyone and everything, as compared to conventional auctions that are localized events for specialized items.

Three trends underlie the digital revolution. First is the rapid transition from analog to digital information, which causes information to be more flexible—digital information is inherently easy to copy or modify, and digital copies are perfect, unlike analog copies (e.g., photocopies). The proliferation of digital networks makes it possible for the general public to transmit inexpensively and nearly instan-

taneously large quantities of information to many people at the touch of a button. And finally, the rise of the Web makes it possible for anyone to become a publisher with minimal capital outlay.

These dramatically improved digital capabilities, however, raise profound and important questions for the regime of intellectual property. The new capabilities that allow information to be distributed rapidly, inexpensively, easily, and perfectly also make it easy for people to violate (whether intentionally or inadvertently) the rights of intellectual property owners. The physical barriers to widespread copying in the analog world are breaking down; these barriers are already overcome for some kinds of information such as digitized songs (by contrast, consider the physical and practical limits to the wide distribution of copies of cassette tapes), and may well be over-



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