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Copyright Questions and Answers

Laura N. Gasaway

Law Library, University of North Carolina, laura_gasaway@unc.edu

Jack G. Montgomery

Western Kentucky University, jack.montgomery@wkyu.edu

Anne F. Jennings

A. Jennings Legal Research and Information, a.jennings@mindspring.com

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Questions and Answers — Copyright Column

by **Laura Gasaway** (Director of the Law Library & Professor of Law, CB# 3385, University of North Carolina, Chapel Hill, NC 27599; phone: 919-962-1049; fax 919-962-1193) <laura_gasaway@unc.edu>
<http://www.unc.edu/~uncclng/gasaway.htm>

QUESTION: *As a librarian who has been hired to create a Webpage for a business that provides costumes, I am interested in using images from 1930s-50s Montgomery Ward's catalogs on the Webpage. Can these images be used on the Internet, or are they protected by copyright law? The complicating factor is that Wards is no longer in business.*

ANSWER: The photos may or may not still be protected by copyright. It depends on whether they were registered for copyright and then whether the copyright was renewed. Consult my chart at <http://www.unc.edu/~uncclng/public-d.htm> to determine when works go into the public domain.

Assume that the photographs were registered and that the copyright was renewed at the end of the 28-year period. Therefore, the photographs may still be under copyright. When **Montgomery Ward's** went out of business, it would have transferred assets to someone else, and copyrights are considered assets. Photographs are registered just like any other copyrighted work, so one would have to search the **Copyright Office** records to determine if the copyright was renewed and/or transferred. The records are online only since 1978. For these earlier works, one would either have to hire the **Copyright Office** itself to do the search or engage a private search firm.

Another possibility is simply to assume the risk of going ahead and using the photographs. The risk is probably slight that anyone would complain because: (1) the age of photos, (2) they were used in widely distributed sales catalogs, and (3) Wards is no longer in business. This does not mean that using the photos is risk free, but just low risk. One can always remove the image if the copyright owner complains. A complicating factor, however, is the fact that the use to which the photographs will be put is commercial rather than nonprofit.

QUESTION: *The principal in a small private school wants to photocopy a musical play that is permanently out of print. The school would also like to perform the play. Would the school have to pay royalties, too?*

ANSWER: Just because the play is out of print does not mean it is out of copyright. The school needs to contact the copyright holder for permission to reproduce copies of the play if the work is still under copyright. Additionally, if the school wants to perform the play, it will also need the performance rights.

QUESTION: *Some faculty members have developed a multimedia PowerPoint presentation as a workshop for high school students who have been suspended from school for aggressive behavior. The presentation was very well received by students and by colleagues when it was presented at a conference. This also generated a number*

of requests to purchase the presentation for use elsewhere. It uses a Star Wars theme and the photographs, music and sound effects were found on the Web at <http://www.starwars.com>. Is there any problem with selling the presentation?

ANSWER: Certainly either the faculty or
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Best Sellers in Anatomy & Physiology 1999

by Françoise Crowell <FCrowell@YBP.com>

Column Editor: Bob Nardini (YBP) <rnardini@YBP.com>

We are not sure which is the bigger mystery on YBP's list of 50 best-selling titles for 1999 in Anatomy and Physiology—why we've sold one copy more of Comparative Hearing: Fish and Amphibians than we have for Comparative Hearing: Insects, or why this pair of Springer-Verlag titles landed on the list in the first place.

It's no surprise at all, though, that the predominant topics on the list reflect our customers' interests in sexual differences, mind and memory, and aging, all universal areas of human concern, of course, which far outnumber topics such as the musculoskeletal system, or NMR spectroscopy, or cellular signal transduction. The American Psychological Association's *Male, Female: The Evolution of Human Sex Differences* has been our top-selling Physiology title for the year, edging out, again by a margin of one copy, Houghton Mifflin's *Woman: An Intimate Geography*.

We hope this best-seller list, which we've arranged in descending sales order,

helps readers of ATG to identify a few titles useful to their own collections.

Geary, David C. *Male, Female: The Evolution Of Human Sex Differences*. Amer Psych Assn 1998 \$49.95 Cloth 1557985278

Angier, Natalie. *Woman: An Intimate Geography*. Houghton Mifflin 1999 \$25.00 Cloth 0395691303

Squire, Larry R. *Memory: From Mind To Molecules*. Scientific American 1999 \$34.95 Cloth 0716750716

Fruton, Joseph S. (Joseph Stewart), 1912- *Proteins, Enzymes, Genes: The Interplay Of Chemistry And Biology*. Yale Univ Press 1999 \$45.00 Cloth 0300076088

Biochemical Pathways: An Atlas Of Biochemistry And Molecular Biology; Ed. By Gerhard Michal. Wiley-Liss 1999 \$115.00 Cloth 0471331309

Kirkwood, Tom. *Time Of Our Lives: The Science Of Human Aging*. Oxford Univ Press 1999 \$27.50 Cloth 0195128249



Allman, John Morgan. *Evolving Brains*. *Scientific American* 1999 \$34.95 Cloth 0716750767

Spitzer, Manfred. *Mind Within The Net: Models Of Learning, Thinking, And Acting*. MIT Press 1999 \$27.50 Cloth 0262194066

Watkins, James, 1946- *Structure And Function Of The Musculoskeletal System*. Human Kinetics 1999 \$49.00 Cloth 0880116862

From Brains To Consciousness?: Essays On The New Sciences Of The Mind; Ed. By Steven Rose. Princeton Univ 1998 \$29.95 Cloth 0691004692

Jouvet, Michel. *Paradox Of Sleep: The Story Of Dreaming*. Translated By: Laurence Garey. MIT Press 1999 \$25.00 Cloth 0262100800

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the institution may sell the presentation (depending on the agreement between the school and the faculty members). However, if one looks at the starwars.com Website and reads the terms of use, commercial use of the images and sound is prohibited. So, while use for the workshop presentation may have been fair use, selling the presentation makes it commercial. If there is broad distribution, even if the sales price is only cost recovery, the best course is to contact Lucasfilm and seek permission.

QUESTION: *The X corporation libraries want to harmonize the way they maintain interlibrary loan records. Corporate counsel has advised that only loans between the corporation and outside libraries are defined as interlibrary loans. Further, librarians have been told that it is not necessary to keep records of photocopies obtained from any of the 13 X corporation libraries as these are covered by its Copyright Clearance Center*

agreement. The same instruction was provided as to not keeping any records of photocopies obtained from an outside, for-profit photocopy vendor. Complicating this issue is the fact that some of these libraries work with vendors that send itemized bills showing separate copyright payments, while other libraries work with a vendor that has sent a letter saying that they will pay the royalties to the CCC. So, is it necessary to keep ILL records?

ANSWER: The only records that must be kept are ILL for which none of the corporation X libraries pays royalties, that is, library to library loans. If the copies come from a vendor that pays the royalties, no records are necessary. This activity is not ILL and royalties are paid. However, it is a good idea to use only authorized document delivery services that pay the royalties for the copies.

If the library obtains a photocopy from a university library, then that is an ILL. If the corporation pays royalties for all ILL also, then no records are required, but libraries may want to do so to provide documentation of compliance. It is a corporate decision. 



TestDriving CD-ROM from page 56

words and phrases of right-to-left languages like Hebrew into left-to-right text such as English. The very powerful search engine locates words or phrases anywhere on the CD and highlights the results.

A topic browser window appears to the left of the main window. It is organized both by era and by topics, with entries listed beneath the topic window. The installation recommends setting a screen resolution of 800 x 600; but the 9-point type can appear too small for easy viewing. One can change the font by editing the user preferences; but this does not change the size. One can change the size from the View option on the toolbar or use Control-Shift-< and Control-Shift->. One can also use the product at 640 x 480 resolution and close the topic browser window. It can be activated at any time and overlays the main window.

African-American History and Culture: CD-ROM Encyclopedia is a thorough subject encyclopedia in coverage. Many entries are brief; but the synergy of all the various components from a variety of sources and the links between related entries provide students and researchers with a rich web of information. The powerful Logos Library System search engine is a good selection for this well-executed product. 