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Copyright Questions and Answers

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Questions and Answers — Copyright Column



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Question: *A librarian friend of mine told me that her library had recently joined the*

Copyright Clearance Center. In so doing, her library would be permitted to make unlimited photocopies of materials whose publishers are registered with the CCC. Are there other organizations similar to CCC that operate in the U.S.? What is its international counterpart? Is having a "middle-man" operation like this an effective way of protecting copyright interests?

Answer: The Copyright Clearance Center is the only royalty collection agency representing publishers for the reproduction of works in the United States. There is also an Authors Registry for individual authors who own the copyright in their works. See <HYPERLINK <http://www.webcom/registry>>. So, someone reproducing a work can pay royalties directly to the author through the Registry. Additionally, there are perfor-

mance rights agencies in the United States, the American Society of Composers, Authors and Publishers <HYPERLINK <http://www.ascap.com/ascap.html>> and Broadcast Music, Inc., <HYPERLINK <http://bmi.com/home.html>> that collect royalties for public performances of music.

There are foreign equivalents of both the reproduction rights agencies and music royalty agencies. In Canada the CCC equivalent is CanCopy, to which our Canadian colleagues often refer as "Can'tCopy."

Question: *What does the new provision from the Digital Millennium Copyright Act mean regarding the notice that libraries have to include on copies it reproduces under the section 108 library exemption?*

Answer: There has always been debate about whether the section 108(a)(3) requirement that all copies made by a library under the library exemption contain "a notice of copyright." The American Library Association recommended in 1978 that libraries

stamp photocopies made with the words "Notice: This work may be protected by copyright." Many copyright lawyers (myself included) believed that the law really meant the real copyright notice.

In 1988 when the United States joined the Berne Convention, the requirement that a copyright owner include the formal notice of copyright was removed. Thus, works appearing without the ©, year of first publication and the name of the author are still protected by copyright. Librarians had asked that they be relieved of including the section 108 notice if the copyright holder failed to do so. This is not exactly what the new amendment does.

It now requires the library to reproduce the formal notice of copyright included on the publication. If there is no notice, then the library may use the legend: "Notice: This work may be protected by copyright." Thus, a library no longer has any choice. It must reproduce the real notice if one appears on the publication.

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permission from the copyright owner." Does this mean no copies whatsoever, or does fair use apply, regardless of this statement?

Answer: The good news is that you can ignore those restrictive warnings; they have no effect unless your library signed a license agreement to that effect when you acquired the work. You can still copy under section 108 the library exemption and under fair use. You should note that most of what a library does is covered under the library exemption and not section 107 fair use.

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