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Group Therapy

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that her work of original expression is, in fact, hers and cannot be appropriated by someone else. Exclusivity is also vital to publishers, since it is only by acquiring the exclusive right to reproduce and distribute a work — in other words, make and sell copies of it — that a publisher can hope to recover the costs of having published it in the first place.

That is why the limitation on those exclusive rights stipulated in Section 107 is so carefully crafted. The four factor analysis provides a way of weighing the interests of copyright holders in maintaining their exclusive rights against the public interest in allowing the unfettered use of copyrighted material, and of reaching decisions based on a particular set of facts and limitations.

Digital copying for the **Library Project**, at least if carried out as currently planned, doesn't recognize any limitations; in fact it reduces the very idea of limitations to rubble. **Google's** position is that their digitization of all copyrighted material for the **Library Project** is a legitimate exercise of fair use, but not one they will exercise for books the rights-holder chooses to opt-out. However, if this fair use claim is valid for **Google**, it is just as valid for any other company with a search engine, whether or not they also allow authors and publishers to opt-out. So opting-out is legally irrelevant. It simply doesn't address the concerns of rights-holders.

What would address them? **AAUP** would certainly like to see the **Library Project** succeed, and it seems to us the best way to do that would be through agreements that brought the **Project** within the well-established framework of licensing and permissions agreements already being implemented in **Google Print for Publishers**. There are complications in doing this — how to deal with third-party permissions, for example — and undoubtedly there would be cases in which permissions couldn't be granted, creating gaps in **Google's** index. However, **Google** has already accepted the idea that the body of texts in the **Google** index will never be as comprehensive as the actual collections of the libraries themselves, since opting-out will also create gaps.

Perhaps there is some other way besides licensing to resolve the issue. I'd certainly be happy to discuss it, and **AAUP** is ready to assist however it can in the search for a solution. But wherever that solution lies, it must be built on a basis of respect for the rights and interests of all the parties involved. **Google** speaks often of their appreciation for intellectual property and of their good relations with their publishing partners. Both qualities are evident in **Google Print for Publishers**; now it's time to extend those same good qualities to their publishing partners in the other part of **Google Print**, the **Library Project**.

Group Therapy

by **Beth Bernhardt** (Electronic Journals / Document Delivery Librarian, Jackson Library, University of North Carolina at Greensboro, PO Box 26170, Greensboro, NC 27402; Phone: 336-256-1210; Fax 336-334-5097)
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GRYPE: Submitted by Tian Zhang (Serials Librarian, St. John's University Libraries, St. John's University, Queens, NY)

I have a question: right now, we subscribe more and more to e-journals, and usually, I have to sign the license agreement with the publisher directly. Also I have to activate the journal by IP address and then put the URLs to our catalog records for our library users. With online journals, our library does not make claims. And most of the time, I subscribe to the journals by packages with the publisher if it is available. I want to subscribe to these titles directly through the publisher and withdraw them from any agent by spending service fees. What are your opinions about it?

RESPONSE: Elizabeth R. Lorbeer, (Collection Development Manager, Library of Rush University Medical Center, Rush University Medical Center)

The per title fee that subscription agents charge customers has become a serious budgetary issue. With the increase of online-only subscriptions, publishers who traditionally offered agents commission for print orders often do not with the electronic counterpart. It is unfair to the agent who has historically brought a steady stream of customers to the publisher. For the agent to recoup its lost commission, the library is now assessed an additional per title fee. If the library purchases an electronic bundle or collection through the agent and no commission is offered, the library can now expect an additional charge in the thousands of dollars just in fees.

It is too tempting for the customer to leave the agent and buy its electronic journals directly from the publisher. Circumventing the agent to save money, or at least be able to afford next year's renewal, may seem reasonable. However, this places the library in a less than favorable position to deal directly with publishers who are not adequately equipped to handle the doldrums of subscription management. Furthermore, when the decision is made by the library to remove a substantial amount of business from the agent in favor of the publisher, the only recourse the agent has is to raise its annual service charge on the remaining subscriptions ordered. The situation at hand is causing a schism between agent and library.

The library community needs to strongly encourage our agent and publisher colleagues to sit down and broker a deal that allows the agent to recoup their commission again. When the agent receives their deserved compen-

sation, this ends per title fees which frees up dollars for the library to buy more resources. It is in our best interest to work together to better our common welfare.

RESPONSE: Lila (Angie) Ohler (Acquisitions Librarian, Bizzell Library, University of Oklahoma Libraries)

The introduction of electronic resources has complicated the traditional print-based business relationship between publishers, vendors, and libraries. This has caused some significant repercussions for libraries in the way they do business, both internally and externally.

In the halcyon days of print based materials, a vendor did the grunt work of keeping track of the library's many journal subscriptions year after year; placing orders on behalf of the library for the authorized materials at the beginning of every publisher's yearly renewal period. What interaction the library had with the publisher was limited, if at all necessary. The margin of profit the library paid to the vendor in terms of service fee per order outsourced seemed justifiable. I think we can all safely agree that the introduction of electronic materials has complicated the traditional business relationship between publisher, vendor, and library?

As many have pointed out, libraries have had to adapt to a model of business based more on negotiating the lease of materials, rather than on the sale of goods. The new world of licensing materials never quite truly "owned" seems almost antithetic to the traditional model of library acquisitions. In this new world, the library is expected to expend personnel resources never dreamt in the traditional vendor model. Consider the things needed from a library even before the resource is formally "acquired" (trial subscriptions, legal council on contract negotiations) and extending long after the resource has been "purchased" (troubleshooting problem links, processing yearly access fees, updating library "holdings," ensuring that electronic access is consistent as publishers change electronic platforms for materials or buy and sell different publications.) And all of this in addition to the peculiarities of adapting print based acquisitions procedures to the more ephemeral fluid nature of acquiring electronic resources. As so many of the recent sessions at **ALA** pointed out, the concept of change for organizations deeply rooted in print based workflows and procedures can be very intimidating, especially when libraries overlook seemingly obvious things like how the order clerk will "process" an order for electronic materials when faced with a computer screen asking for details only relevant to print materials. Needless to say ingenuity prevails,

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but not always with the end result of coherence.

This extra labor may lead some libraries to consider the cost of the service fee to a vendor for purely electronic materials to be too high. But as many librarians point out, the vendor still can act on behalf of the library in organizing the details of the yearly renewal of subscription orders, and as a conduit of information between the publisher and the library when things go wrong. I know of many occasions when I have been delighted that I can ask our service representative to contact the publisher to verify or retrieve whatever information we need in order to set up online access to one of the many publications we acquire in either dual print/electronic or electronic only format.

On the other hand, many librarians are legitimately asking, why is it necessary that we supply the publisher with information that the publisher already has, all in order to gain access to online materials through that same publisher? And the addition of another layer of communication between the library and the publisher can sometimes be a blessing or a curse, depending on the quality of your vendor's service representative and the intricacies of the publisher's own internal procedures. Add to this the notorious resistance of publishers to work with vendors on the details of "big deal" consortia purchases. The sudden realization that a library will have to expend more personnel re-

sources on a yearly basis to check the accuracy of discount pricing done through a vendor can seem at times to defeat the point of outsourcing subscription orders. Add to that the extra training that may be needed for library staff to develop the skills necessary to differentiate the coding of such information between both print and electronic resources in not only the library's system, but the vendor's, and sometimes the publisher's online databases. All of these factors might lead libraries to reconsider their use of vendors to acquire online materials. And yet I wonder why it is that more libraries do not demand that publishers work with their vendors.

Vendors are sensitive to this dilemma for libraries, and while continuing to take on the role of resolving order problems with publishers for libraries, have also started to offer new services to help libraries with electronic resource management. But here again the decision to do business through vendors can be a tricky issue for libraries. In many cases, if the vendor is to act on behalf of the library, it will need the same proof of license agreement between library and publisher that the publisher initially demands. But libraries may be reluctant to share this information with the vendor within what they essentially see as a separate business relationship, exclusive of the library's relationship to the publisher. Other concerns may be the obligations of business practice stipulated by the library's parent organization.

So what are we to do? Libraries expect cooperation between publishers and vendors to

resolve the details of ordering, paying, and accessing online materials. But are we willing to reexamine our own business practices, both externally and internally, and then demand the same of our business partners?

RESPONSE: Rebecca Day (Electronic Resources Manager, EBSCO Information Services)

EBSCO and other agents have placed great focus on servicing electronic journals over the past several years. While the handling and servicing of print journals is a well-established process for libraries, publishers and agents, e-journals demand an entirely new — and often more labor intensive — set of skills and tasks.

In the electronic environment, traditional agent services — order consolidation, pre-payment to publishers, a single point of contact for information, claiming, reporting, and more — are still beneficial. For example, claiming has taken on different characteristics, but it certainly exists. (Can you say that you've never had a patron complain about a link that didn't work or a "subscribed title" for which they were asked to give a credit card number to get access? Was your agent able to help resolve the issue? They should be.) And agents continue to invest significant amounts of time and resources in developing services specifically targeting e-journal access and management.

An expanded role for the agent in the electronic environment is that of serials information provider. Purchasing online access requires

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much more than simply providing a mailing address: access models, purchase models, archival rights, backfile access, registration/subscription ID numbers and more must be considered. The agent serves as a clearinghouse for this information. Agents can assist with registration and activation of titles, link management, publisher format changes and much more.

For e-journal packages, libraries spend an immense amount of time reconciling title lists with publishers, verifying invoices when they are received (often late in the year), tracking titles that move in and out of packages, and more. Have you asked your agent for help? An agent's order history records and relationships with publishers put us in a unique position to handle these tasks in an automated way on a large scale.

A complete list of agent e-journal services will not fit in this space — and while many already exist, many are in development and will change as the environment changes. From EBSCO's perspective, one thing is certain: providing superior customer service will always be a driving force behind all we do, and this now includes helping our customers manage e-journals efficiently. Indeed, im-

proving existing and developing new services, systems and products to assist librarians in the management of e-resources is our company's number one priority.

We all understand the need to save money. But by ordering directly from the publisher, will the money you might save in service charges be worth the service you are losing? Agents can and want to provide service for e-journals. Librarians should be sure to engage in discussion with their agent about services that can be provided prior to making direct-purchase decisions.

Direct purchasing also has an effect on the balance of the library's business with the agent. An agent's business is high volume but low margin. This margin comes from two sources: publisher discounts and library service charges. A certain level of income from these sources must be reached on every account in order for agents to maintain a viable business. Much of our profit is reinvested in services that benefit our customers. Significantly reduced profit means a compromised level of service.

If a library chooses to order a number of titles direct, and these titles are from STM publishers who have typically offered the agent a reasonable discount while the balance of the list is from publishers who offer insuf-

ficient discount, then the agent must raise the library's service charge in order to continue to service the account. The increase in service charge is not intended to be a vindictive move; it is simply a result of employing sound business practices. A library may initially save money by purchasing journals direct only to find that staff time for managing the direct purchases has increased along with the agent's fee on the remaining titles.

For librarians who are weighing the option of going direct for their electronic journals versus ordering them through an agent, here are a few suggestions. First, call your agent. Talk about e-journal services and determine whether you are taking full advantage of what the agent has to offer. Second, consider total costs and not just the cost of the material. What is it going to cost you in employee time to handle the e-journals that are ordered direct? Are there other tasks on which their time might be better spent? Will it cost you more for the agent to handle the balance of the subscription list if you order these titles direct? While some libraries do purchase direct, many have determined that the value an agent brings to the process of purchasing and managing e-journals and e-journal packages is something they don't want to do without.

Bet You Missed It

Press Clippings — In the News — Carefully Selected by Your Crack Staff of News Sleuths

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Column Editor's Note: Hey, are you reading this? Your esteemed column editor would like to know what you think! Zip off a quick email to <pmrose@buffalo.edu>. Does BYMI fill your needs? Do you have any suggestions for changes? I'm listening! — **PR**

FEASIBLE FILTERING

by **Sandra Beehler** (Lewis & Clark College)

Collaborative filtering technology today plays a growing role in the choices we make about books, music, film and other purchases. The technology looks for patterns in likes and dislikes and applies those patterns to find and recommend similar items. In order for collaborative filtering to be feasible, it had to overcome two obstacles: scalability (tracking millions of users) and seamlessness (no preference surveys to fill out). Filtering works by gathering information from transactions carried out on the Web. There are two ways to generate recommendations from this information: similarity of interests to other users (user to user) or similarity of items (item to item). Item to item filtering works better in the real world because there is less data to compute. Privacy is one of the issues raised by such collaborative filtering, and researchers are developing ways to protect information about your choices from outside parties. For instance, **TiVo's** filtering system is localized, preserving privacy. Another concern is the possibility of manipulation by those who want to subvert ranking systems for their own profit. Researchers at **Harvard's Kennedy School of Government** have proposed a technique to detect such manipulation. The ultimate limitation of filtering is that users can change their minds and their tastes rather unpredictably — that may prove impossible to control. For the moment, though, filtering helps many people find what they might otherwise miss.

See — "United We Find" — *The Economist*, no. 8417 (March 12, 2005), p. 26-30.

NIH WANTS IT NOW!

by **Pamela M. Rose** (University at Buffalo)

The **NIH** unveiled a policy in early February aimed at making the research it funds more freely available, but the language has authors worried that they'll have to challenge publishers' release dates. Librarians, patient advocates, and scientists who feel journal prices are too high support the plan, but publishers are worried that free access to results so soon after publication could bankrupt them. The final policy states **NIH** will wait up to one year to post the papers, but "strongly encourages" posting asap.

See — "NIH Wants Public Access to Papers 'As Soon As Possible'" by **Jocelyn Kaiser**, *Science*, Feb. 11, 2005, p. 825.

NETMOVIES

by **Sandra Beehler** (Lewis & Clark College)

Later this year **Netflix** — the online movie rental company — will launch a service to download movies thru the Internet. The choices are bound to be limited initially, since studio fears of illegal file-sharing remain strong. **Netflix**, with its huge inventory of available titles — has stood up well to competition from **Wal-Mart** and **Blockbuster**. It is now positioning itself to be a main player when Internet movies become the norm.

See — "Movies to Go," *The Economist*, v.376:no.8434 (July 9, 2005), p. 57.