

2014

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Recommended Citation

Kutz, Myer (2014) "The Scholarly Publishing Scene- Permissions, Oy Vey," *Against the Grain*: Vol. 26: Iss. 4, Article 77.

DOI: <https://doi.org/10.7771/2380-176X.6924>

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The Scholarly Publishing Scene — Permissions, *Oy Vey*

Column Editor: **Myer Kutz** (President, Myer Kutz Associates, Inc.) <myerkutz@aol.com>

“Copyright is a pain in the ass” — an internationally-renowned intellectual property attorney in tongue-in-cheek response to my complaint about the effort — always time-consuming, sometimes frustrating and occasionally disproportionately expensive — to secure permission to use in my handbooks not only material borrowed from other publishers but also drawings and photographs belonging to industrial companies, other organizations and individuals around the world, and in most cases of no value to them.

I suppose you can see where I’m going with this. But let me say at the outset that my visceral reaction at any particular moment to the attorney’s statement (he’s a good friend of mine, by the way) depends on which side of the copyright issue I’m sitting on at that moment. For example, whenever I find a chapter from one of my handbooks available on some Website free of charge, which does happen, I’m properly outraged. Someone’s stealing from my publisher and me. On the other hand, when I add up all the effort it takes to round up permissions to use copyrighted materials in the fourth edition of a massive handbook that I edit, I rail against the fates, even though I understand perfectly well not only that I need to follow the letter of the law but also that I no more wish to rob anyone else of sales and royalties than I want them taken away from my publisher and me. I don’t even want to use without permission a drawing of a generic component that was obtained from an industrial company for whom the drawing has no value. Rules are rules, and “information wants to be free” in this context only works when the source of the information explicitly grants permission for you to have his expression of the information for nothing.

The fourth edition I’m talking about here is that of the *Mechanical Engineers’ Handbook* that I put together for **Wiley**. It’s massive. There are four volumes, with a total of 112 chapters and well over 4,000 pages. A hundred and forty or so authors contributed to the handbook. It took two editorial assistants to get it ready for production. Permissions needed to be secured for well over 400 illustrations — line drawings and photographs — from a wide variety of organizations and individuals.

The handbook has been in continuous publication since 1986. As is typical for a handbook of the size and scope of this one, the new edition contains chapters that are new to the handbook, updated and unchanged chapters from earlier editions, as well as updated and unchanged chapters from other recent **Wiley** books of mine that fit well within this handbook. Permission specific to this handbook had to be secured for every borrowed figure, no matter whether the chapter that contains it is new or old, changed or unchanged, or where it originated. To facilitate the tasks of authors and editors, **Wiley** is using a new form with comprehensive language that requests permission to use copyrighted material “in all media of expression now known or later developed and in all foreign language translations and other derivative works published or prepared by **John Wiley & Sons, Inc.** or its

licensees, for distribution throughout the world, and also in versions made by nonprofit organizations for use by blind or physically handicapped persons.” The company has told me that it is now keeping scrupulous records of permissions — in response, I surmise, to a lawsuit it lost several years ago in which its recordkeeping, among other things, was found by the owner of numerous stock photos used in a **Wiley** textbook to be lax. The bottom line for me is the hope that the firm’s lawyers have devised language that will allow me to escape having to get a new round of permissions in future editions for material that was covered in this edition.

I can say that handbook chapter contributors are scrupulous in giving acknowledgment to an originator whenever anything is borrowed. Contributors put the words “courtesy of” before the name of the source of an illustration in the caption. Some figure captions are footnoted and end-of-chapter references have the details about sources. In addition, of course, there has to be a formal permission, and contributors’ work-for-hire agreements clearly state that they have to obtain written permissions from copyright owners. It’s additional work and in some cases, publishers will charge permissions fees (more about that in a future column), so I beg contributors to borrow as little copyrighted material as possible.

Nevertheless, there’s always work for me, the editor. For example, one contributor, whose chapter appeared first in an earlier edition of the handbook and is being reprinted in this edition, died between editions. As a result, I had to chase down permissions for figures in his chapter myself. Ditto in the cases of some other contributors, reportedly still alive, although impossible to track down by either email or phone since the handbook went into production.

Securing permissions from industrial companies has provided a look into how corporations are mutating nowadays. I would find a contact at the company credited with being the source of an illustration only to learn that the division that had generated it had been sold to another company. Contacting that company would reveal yet another sale. In one case, that of a

line drawing of a generic furnace component, the sale of a French company to one headquartered in the U.S. is pending. If it goes through before I secure the permission, and I’m getting no response to repeated requests, I will probably have to go around again with a new team that will be focused on matters of more pressing interest to them than my need for a permission for a figure that has no value to them.

Some chapters have offered even more serious problems. One chapter, which originated in another book of mine, contained seventeen photos of industrial equipment culled from rather obscure companies and individuals from around the world. A new set of permissions to use the photos was required. After weeks of trying to get the lead contributor to reply to emails or return phone calls to him at the school to which he had relocated since he wrote the chapter, I managed to track down the junior contributor, who had also relocated to Europe. She contacted her mentor, and they said that they’d work on securing the permissions. After a couple of weeks of radio silence, I wrote to them, asking how they were getting on with the task. This was the lead contributor’s reply from his iPhone: “We are not interested in publishing our chapter in future editions and thus will not be seeking permissions. Sorry.” Another contributor has thrown in the towel in a different regard, writing: “I suggest that **Myer** goes ahead and uses the figures as we are in the clear, having written to them. If they do not respond then the ball is in their court. **Myer**, If you think it is impossible to proceed without the remaining permissions then we will simply remove those figures, but the text will obviously be altered.” No doubt the production folks will find the promise heartwarming at this late date in the process.

Then there’s the phone call, just yesterday, that I made to the staff attorney at the company which acquired the company that was the source for a figure in the chapter of the deceased author I mentioned earlier. The attorney told me that he had to make a small correction — whether to the figure or the caption, he wouldn’t say — and that he would “get to it.” He demurred from telling me when that would be. I hope it’s before I join the late author on the other side of the grass. 🐾



Pelikan’s Antidisambiguation — The Vanishing, Pervasive Network...

Column Editor: **Michael P. Pelikan** (Penn State) <mpp10@psu.edu>

At the time of this writing, we’ve just finished up **Google’s** I/O developer’s conference, **Amazon** has launched a phone, and everyone’s waiting to see what **Apple’s** going to do next (and by the time you read

this, they’ll have done it and everyone will be waiting to see what **Apple** is going to do next).

A few months ago, there was quite a bit of buzz around the phrase “*The Internet of*

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