



# ***Copyright Transfer: Challenges and Successes***

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*DOE Scientific & Technical Information  
Program Meeting – April 2004*

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A U.S. Department of Energy  
Office of Science Laboratory  
Operated by The University of Chicago



# Challenges

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- **Publishers' copyright transfer practices, for journal articles and conference proceedings papers, are:**
  - Highly variable
  - Often at odds with DOE prime contract terms
- **Improperly handled copyright transfers raise risk of legal action against a lab, its contractor, or DOE if:**
  - Publisher objects to subsequent government exercise of royalty-free license to reproduce article or paper
  - Someone claims harm from published article or paper



# ***Major stumbling blocks***

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- **Who indemnifies who?**
  - Publishers routinely seek indemnification
  - Argonne will not indemnify others without express permission of DOE, and will not seek that permission for a publication
- **Who signs for who?**
  - Publishers often want one signature per work
  - Argonne will not sign on behalf of others
- **Can Argonne post the work on the internet?**
  - Standard agreements usually prohibit this
  - Argonne seeks it
- **Electronic copyright transfer requests that go direct to authors**
  - If authors agree directly, agreement has no legal force
  - Publishers don't always care



# ***Rights reserved by Argonne***

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- **Argonne transfers copyright subject to the government license, but in addition explicitly reserves right to:**
  - After publication, post an abstract, original manuscript, or an author-updated or corrected manuscript on the Argonne intranet and use the article for lecture, classroom, or Argonne internal purposes
  - Post an abstract on the internet
- **Argonne agrees that:**
  - If a prior version of the work (normally a preprint) has been posted to the internet, it will not update and/or replace this prior version in order to make it identical in content to the final published version
  - All copies of the whole article or abstract made under any of the above rights will include notice of the publisher's copyright and bibliographic citation if available at the time the copy is made

# ***Background***

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- **Under Argonne's contract, only individuals with explicitly assigned procurement authority can legally commit the lab in a contractual arrangement**
  - STI staff has delegated authority to sign copyright transfer agreements – implicit in such agreements is The University of Chicago's assertion that copyright is held and can be transferred
  - Argonne authors cannot assert copyright in their work – only lab's designated representatives can do that
- **600-700 copyright transfers signed each year**



# ***Successes: library of negotiated copyright transfer agreements***

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- **A library of 356 negotiated copyright transfer agreements, from 260 publishers, has been built at Argonne**
- **Each newly received copyright transfer agreement is compared to the library**
  - If not in library, STI staff sends to Argonne lawyers
  - If approved by lawyers, goes into library. Otherwise:
    - *We propose our standard agreement and publisher accepts*
    - *We negotiate changes in the publisher's agreement*
    - *Only one case where agreement was not possible*
- **Ultimately, a new negotiated agreement goes into the library**



# ***Example: private vs government status***

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- **Publisher believes Argonne authors are federal employees**
  - If true, no copyright would exist, making the form meaningless and something that, in the publisher's view, anyone can sign
  - ASCE and ASME
- **Solution:**
  - Continuing education of publisher representatives – time consuming



# ***Example: web-based copyright transfer***

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- **Publishers send email notification to authors, who can go to a url and click “I agree.”**
  - Easy route to a meaningless agreement
- **Solution:**
  - Educate Argonne authors not to click “I agree”
  - Work with publishers to modify on-line forms
  - Microscopy Society of America has agreed to add a choice “Copyright does not belong to you” that leads to a printable form that can be annotated with exceptions and mailed
  - Laser Institute of America has not yet agreed to work with us



## ***Example: authors from different institutions***

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- **Publishers such as AIP, APS, and ACS want one signature per copyright transfer form – but Argonne will not sign for others**
  - Argonne cannot transfer a copyright it does not hold
  - Argonne authors cannot attest to the originality of others' work
- **Solution:**
  - For AIP and APS – Argonne arranges for one non-ANL author to sign a copy of the transfer form on behalf of all non-ANL authors, Argonne signs for its authors, staples two copies of form together and mails
  - For ACS – Argonne routes the original agreement form to as many institutions as needed to get signature – the Society will accept only one form



# ***Better solutions for copyright transfer?***

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- **Share ANL library of acceptable copyright transfers**
- **Do others have similar libraries?**
- **Collaborative action by national labs to develop expedited processes with major publishers**

