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MONTHLY REPORT

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NEWS FROM WASHINGTON

House Approves Mandatory NIH Public Access Policy

With House passage in late July of the Labor, Health & Human Services Appropriations, journal publishers lost the first round in a battle over whether Congress should require final peer-reviewed manuscripts of articles written by NIH-funded researchers for publication in scientific journals to be submitted to the National Library of Medicine and made freely available online through the PubMedCentral website. The legislative battle is not over, however, and publishers were successful in identifying and articulating the serious copyright and economic implications for journal publishing business models.

The current NIH Public Access Policy with respect to articles written by its grant-funded researchers has been based on *voluntary* submission for subsequent online availability within 12 months of publication in a peer-reviewed journal. The bill passed by the House would make such submission *mandatory*. Opposition to mandatory submission, which had focused on the potential adverse impact on the peer-review process, investments and business models of journal publishers, has now re-focused on its potential impact on U.S. copyright policy in both the domestic and the global marketplace, an issue that has gained the attention of the bipartisan leadership of the House and Senate Judiciary Committees. Although House Appropriations Committee Chairman David Obey (D-WI) refused to delete the mandatory language that

had been added at the subcommittee level, he did acknowledge the concerns raised by the bipartisan leadership of the House Judiciary Committee and its Intellectual Property Subcommittee by adding language requiring NIH to implement its public access policy “in a manner consistent with copyright law.”

That language, which is in line with the version of the appropriations bill approved by the Senate Appropriations Committee, does not resolve the issue. Journal publishers maintain that mandatory submission of the final peer-reviewed manuscript cannot be implemented “consistent with copyright law” because of its adverse impact on journal publishers’ copyright interests in the version of the manuscript published as a journal article.

The legislation as approved by the Senate Appropriations Committee is not expected to reach the Senate floor until after the summer recess. The fight over mandatory submission is not over in the Senate and will undoubtedly resume after Labor Day.

AAP President Meets with Senators on Pre-K Issues

AAP President & CEO Pat Schroeder participated in a discussion on pre-K issues with Senators Robert Casey (D-PA) and Hillary Clinton (D-NY) on July 25. The senators discussed bills they have introduced that focus on pre-K. This issue is moving to the forefront of the agenda in many states, as evidenced by the 29 governors who mentioned pre-K in their State of the State addresses this year (as opposed to only 11 governors who mentioned it three years ago). New York has just approved \$146 million in funding for pre-K

for 44,000 youngsters; other states are also moving funding bills. The senators are pushing pre-K funding at the federal level as well. Research was presented showing the importance of early learning to individual success later in life as well as its benefits to the public-- for every dollar spent on early learning, seven dollars is saved by the public later. Both senators are open to meeting with publishers on these issues. Senator Casey was a 5th grade teacher and Senator Clinton welcomes contact with publishers. AAP will continue to monitor these bills.

Senate Passes FOIA Reform Bill

Prior to leaving for the August recess, on August 3 the Senate passed sweeping bipartisan legislation to streamline the operation of the Freedom of Information Act (FOIA) and increase government transparency. The Open Government Act of 2007 (S.849), co-sponsored by Senate Judiciary Committee Chairman Patrick Leahy (D-VT) and Committee member John Cornyn (R-TX) represents the first FOIA reforms in more than a decade. The bill restores meaningful deadlines for agency action on FOIA requests and imposes real consequences for federal agencies that miss the FOIA’s 20-day statutory deadline. The bill also clarifies that FOIA applies to government records held by outside private contractors, establishes an FOIA hotline service for all federal agencies, and creates an FOIA Ombudsman to mediate agency level disputes and provide an alternative to costly litigation. Through the Open the Government.org coalition, AAP has been lobbying for FOIA reforms and joined a host of organizations, including the Society of Professional Journalists and the American Library Association, in sending a letter on

August 3 to Senators Leahy and Cornyn thanking them for their leadership and urging them to stand firm against attempts to water down the reform provisions.

Legislation Introduced to Curb NSL Abuses

Bi-partisan legislation was introduced in the House on July 26 that would provide safeguards against abuse of the National Security Letter authority granted under the USA Patriot Act. Co-sponsored by Representatives Jerry Nadler (D-NY), Jeff Flake (R-AZ), Ron Paul (R-TX) and William Delahunt (D-MA), the “National Security Letters Reform Act” would address many of the abuses detailed in a report issued last spring by the Inspector General of the Justice Department. Specifically, the legislation would:

- give NSL recipients the right to challenge the letter and the accompanying gag order;
- Place a time limit on the gag order (which can be extended on court order);
- Notify the target of the NSL if the government seeks to use the records obtained in subsequent legal proceedings;
- Allow the subject of the NSL to receive legal counsel and challenge use of the records

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Copyright Alliance, Unions Urge Congress to Protect U.S. Jobs

The Copyright Alliance—which includes AAP among its members—joined with seven guilds and unions, including the International Brotherhood of Teamsters and the Screen Actors Guild, in sending a letter to the House and Senate Leadership on July 2 emphasizing the importance of copyright in creating and sustaining high-paying U.S. jobs, and underscoring the threat to those jobs posed by rampant copyright piracy.

Pointing out that “11.3 million U.S. workers are employed in [the U.S. copyright industries] from film and television artists, to software engineers, to graphic designers, and set carpenters,” the letter states that “...rampant copyright theft directly threatens both the continued strength of the U.S. creative industries and the employment they provide,” and calls upon Congress to consider and pursue policies “that will better protect the creative works produced by the men and women of the U.S. copyright industries.”

The letter is part of the Alliance’s ongoing educational outreach campaign to promote the value of copyright as an agent for creativity, jobs and growth. For more information visit the Copyright Alliance website at www.copyrightalliance.org

ANNUAL MEETING

2008 AAP Annual Meeting Dates Set

The AAP 2008 General Annual Meeting will be held in New York on Wednesday, March 5, 2008. For the second year, the gathering will take place at the Yale Club. The Smaller & Independent Publishers Annual Meeting is tentatively scheduled for the preceding day, Tuesday, March 4. Details on both programs will be available soon.

FREEDOM TO READ

AAP Brief Urges Dismissal of Red Hat Club Defamation Suit

On July 30 AAP filed a brief asking the Georgia State Court of Appeals to dismiss a defamation suit against St. Martin’s Press and one of its authors, Haywood Smith, by a woman claiming to be the model for a character in Ms. Smith’s novel, *The Red Hat Club*. The plaintiff claims that the novel’s depiction of the character’s drinking and sexual escapades defames her. A Georgia trial court, in an extremely troubling and misguided ruling, failed to dismiss the case, finding there to be factual issues to be determined at trial. Pointing out that many fictional characters are “based on” real people the author has known, the AAP brief argues that it is not enough for the plaintiff to claim to have been defamed by the depiction of a fictional character who is

“based upon” and bears some similarities to herself. She must show that a reasonable reader would believe the character and the plaintiff to be one in the same, and would confuse the actions of the fictional character with those of the plaintiff. The brief points out that when a judge fails to dismiss a case in the absence of such a showing, there is a profound chilling effect on the free speech rights of authors and publishers.

AAP Voices Opposition to New York “Dead Celebrities” Bill

In a letter to leaders of the New York State Senate and Assembly, AAP voiced concern and opposition to legislation making its way through the state legislature that would give to the heirs of anyone who has died since 1938 the power to control all uses of their image, signature, and voice and would criminalize the unauthorized use of such images. The legislation, which is being pushed by celebrities including Al Pacino and Yoko Ono, fails to exempt expressive works, and would “invite litigation that would interfere with lawful, non-commercial expression.” In addition, the letter pointed out, the legislation’s failure to preclude retroactive application would “wreak havoc on publishers,” who would find themselves liable for works that have already been published. “The repercussions of such an open-ended right would be disastrous,” the letter states. AAP urged that the legislature not take action during this session and move slowly and carefully to allow for “a full vetting of the public policy implications of such legislation.” The legislature adjourned in July without taking action on the bill, but it is expected to be reintroduced in the next session.

Supreme Court Denies Cert. in Harvest House Case

As the current term drew to a close at the end of June, the U.S. Supreme Court refused to review a ruling by the Texas Court of Appeals dismissing a libel suit against Harvest House Publishers brought by a group called The Local Church. The Supreme Court’s denial of the petition effectively ends a six year legal assault in which The Local Church claimed their inclusion in *The Encyclopedia of Cults and New Religions*, published by Harvest House, was defamatory because of general comments regarding cults in the book’s introduction and appendix. AAP took the lead last fall in a friend-of-the-court brief supporting Harvest House, citing the Local Church’s long history of using libel litigation to silence criticism (see *Monthly Report* September/October 2006).

GET CAUGHT READING

The Campaign Rolls On

The Get Caught Reading campaign continues to grow, with new celebrity endorsements including LL Cool J, John Lithgow, Yoda of *Star Wars* and Emma Roberts as *Nancy Drew*. The campaign has gone international, with people across the globe embracing the Get Caught Reading brand of literacy activism.

In cooperation with IMG Tennis, AAP has enlisted the support of U.S. tennis star Nicole Vaidisova in the Get Caught Reading campaign, featured reading Mitch Albom’s

bestselling *Tuesdays with Morrie*. With her regular “book report” contribution to *Smash Tennis Magazine* and her reputation for traveling the circuit with a tennis bag full of books, Vaidisova is already known as a book lover. She will serve as the inaugural spokesperson representing tennis on the Get Caught Reading literacy trail, joining athletes from Major League Baseball and the National Basketball Association in the campaign. PSAs and an editorial have been featured in the *Orlando Sun Sentinel* and the WTA Tour Newsletter.

HIGHER EDUCATION

AAP Higher Ed Publishers Host Capitol Hill Briefing

AAP’s Higher Education group hosted a Congressional briefing at the Rayburn House Office Building on July 10 to showcase the importance of textbooks and educational technology in the classroom and to discuss the issue of transparency.

Congressional staff members got a crash course on college textbooks, learning that options are more varied than ever and range from basic black-and-white paperbound books to four-color hardbound books to complete digital learning programs. At the briefing, which featured presentations by post-secondary publishing experts, AAP President Pat Schroeder spoke of the pivotal role that course materials play in helping American college students succeed in higher education and get needed preparation to compete in the 21st Century workforce.

Representatives from Bedford, Freeman & Worth Publishing Group, Houghton Mifflin Company, John Wiley & Sons, McGraw-Hill Companies, Pearson Education, Reed Elsevier, and Thomson Learning participated in the event, answering questions and offering hands-on demonstrations of their latest education technology. For a copy of the briefing presentation, contact Stacy Skelly at sskelly@publishers.org

PROFESSIONAL & SCHOLARLY PUBLISHING DIVISION

New PRISM Coalition Will Inform Public About Risks of Government Interference in Scholarly Communication

A new initiative announced August 23 will bring together like minded scholarly societies, publishers, researchers and other professionals in an effort to safeguard the scientific and medical peer-review process and educate the public about the risks of proposed government interference with the scholarly communication process.

The Partnership for Research Integrity in Science and Medicine (PRISM) is a coalition launched with developmental support from AAP/PSP to alert Congress to the unintended consequences of government interference in scientific and scholarly publishing.

The group has launched a website at <http://www.prismcoalition.org>, where it articulates the PRISM Principles, an affirmation of publishers' contribution to science, research, and peer review, and an expression

of support for continued private sector efforts to expand access to scientific information.

(<http://www.prismcoalition.org/prism/about.htm>)

The PRISM website includes factual information and reasoned commentary designed to educate citizens and policy makers, to dispel inaccuracies and counter the rhetorical excesses indulged in by some advocates of open access, who believe that no one should have to pay for information that is peer reviewed at the expense of non-profit and commercial publishers.

PSP Effort to Get Text and Reference Materials to Iraqi Medical Schools

PSP's American Medical Publishing Committee is working with the Iraqi Embassy to help relieve the critical shortage of quality medical reference materials at 20 medical schools in Iraq. This shortage has severely compromised the ability of Iraqi physicians and scientists to engage in discourse with the global medical community. The AMPC is seeking help from publishers to get hundreds of medical titles to the warehouse of the Brothers' Brother Foundation (www.brothersbrother.org). Brothers' Brother Foundation is an award winning Pittsburgh-based, non-profit with experience in shipping books into trouble zones around the world. Once they reach Iraq, the books will be distributed by the staff of LIFE for Relief and Development, a Muslim charitable group with offices in the US and in Iraq. If you can donate, please contact Sara Firestone (sfirestone@publishers.org, 212-255-0200 X257).

PSP Member Imprint List Now Available

To enable prospective users to identify, locate, and contact PSP member copyright holders, PSP has compiled an imprints list of member companies with a point of contact and other information. It is available to view on AAP's website at http://www.publishers.org/main/Membership/member_03.htm or PSP's website www.pspcentral.org. The list is intended to facilitate the process of seeking permissions, obtaining general information, and locating personnel. Member publishers are urged to take a look at their own imprints and to send updates or changes to Romina Naveira at Rnaveira@publishers.org.

PSP Seeking Submissions for 2007 PSP Awards

The PSP Awards for Excellence, the only comprehensive awards program celebrating the range and diversity of professional and scholarly publishing, will begin accepting submissions for the 2007 awards in September. This year each PSP member house will be given one complimentary entry. Other highlights of this year's awards program include three new electronic publishing and journals publishing awards; five new "best of" awards to be chosen from 28 subject book award categories; an extensive publicity and marketing campaign for award winners and a streamlined awards ceremony. For more information contact Romina Naveira at rnaveira@publishers.org or visit www.pspcentral.org

Limited Exhibitor Space Available at 2008 PSP Annual Conference

A limited number of exhibitor spaces remain for the 2008

PSP Annual Conference, *Interactivity 2008: Communities, Content, Connectivity*, which will be held February 6-8, 2008 in Washington, D.C. More than 200 senior executives from over 125 companies will attend the conference, making it an excellent marketing and networking opportunity. For more information contact Sara Firestone at sfirestone@publishers.org

Finance for Non-Financial Professionals Seminar

The PSP Division will host a seminar on *Finance for Non-Financial Professionals* on November 16 at the AAP New York offices. The purpose of the seminar is to help non-financial professionals understand the importance of the accounting/financial function and learn how to read and understand financial statements. Topics such as accounting basics and financial concepts will be addressed at the seminar, which will be held from 9:00 a.m. to 3:00 p.m. and will be led by Molly Venezia, Assistant Director and CFO, Rutgers University. For more information and to register contact Sara Firestone at sfirestone@publishers.org or visit www.pspcentral.org

SCHOOL DIVISION

Online Registration Available for Math/Science Summit

Math and Science Education from Policy to Product to Practice will be the theme of the AAP School Division's seventh annual fall summit, scheduled for Oct. 4. The summit will bring together curriculum developers, education policy

leaders, and publishers to address new directions in math and science education and their impact on instructional materials.

Confirmed speakers include Francis "Skip" Fennell, President, National Council of Teachers of Mathematics; Gerry Wheeler, Executive Director, National Science Teachers Association; Sharon Robinson, President and CEO, American Association of Colleges for Teacher Education; Sue Rigney, Standards, Assessment, and Accountability, U.S. Department of Education; and Ntiedo Etuk, Chairman and CEO, Tabula Digital. The Summit will be held at the Doubletree Hotel Crystal City, Arlington, VA. For more information and to register online go to <http://www.aapschool.org/conferences.html>

New School Division Website Launched

In July the new AAP School Division website was launched at www.aapschool.org. Incorporating significant improvements in design and organization, the new web site will offer a stronger, more positive image of the industry. The site is a work in progress and improvements will continue in the coming months. The "Instructional Materials & Technologies" section, in particular, will be expanded to highlight innovations of the Division's members. The new site is the fourth site the School Division has unveiled in the past 12 months. The sites are all closely linked to www.aapschool.org. Visit all of the School Division's sites at: www.testingfacts.org, www.californiak12books.org, and www.texas textbooks.org

INTERNATIONAL COPYRIGHT PROTECTION

AAP Welcomes Passage of Copyright Legislation in Hong Kong

AAP welcomed passage in Hong Kong in late June of the Copyright Amendment Bill of 2006. Since 2001, a Hong Kong-based coalition of foreign and local publishers has worked with Hong Kong authorities, opposition groups, and Legislative Council members to press book publishers' concerns on issues including the absence of criminal penalties for possession of infringing books and other publications, exceptions to copyright protection, fair dealing, online infringement, and other potential threats to the interests of publishers and other rightsholders.

AAP assisted this group by providing extensive legal analysis and drafting assistance for industry submissions, and through lobbying efforts during AAP visits to Hong Kong. STM, IPA, IFRRO and other international groups weighed in during the process as well. Patricia Judd, AAP's director of international copyright enforcement pointed out that as a result of these collaborative efforts, the publishing community was able to make significant gains, but she stressed that work remains to be done.

AAP Raids Hit Malaysia Copyshops

AAP, in collaboration with local authorities, raided four photocopy shops in Malaysia near the Melaka Campus of Multimedia University in late June, resulting in the seizure of

452 infringing copies and five photocopy machines and the arrest of all of the shop owners. The publishers whose works were infringed, all of whom are AAP members, are cooperating in the ongoing investigation.

AAP Supports U.S. Government in Seeking WTO Dispute Settlement Panel

AAP voiced its support for action taken in mid-August by the Office of the U.S. Trade Representative in requesting that the World Trade Organization establish a dispute settlement panel to help resolve issues arising from China's failure to adequately protect intellectual property rights. The request for a dispute settlement panel is the next step in the U.S. Government's WTO case against China initiated in April (see *Monthly Report* March/April 2007), and was taken after formal consultations failed to produce a resolution. The WTO Dispute Settlement Body will consider the U.S. request for a panel at its next meeting, scheduled for August 31.

TRADE PUBLISHING

AAP, PLA to Collaborate on 2008 National Conference

The Public Library Association and AAP have agreed to work cooperatively to develop author programs for the PLA 2008 National Conference which will be held in Minneapolis March 25-29. As the premier event for public libraries, the PLA National Conference will draw librarians, library support staff, trustees, Friends, and library

vendors from across the country and around the world. More than 11,000 library staff, exhibitors, authors attended the 2006 conference, the largest to date. The conference offers more than a hundred educational programs, along with an impressive list of speakers, a bustling exhibit, and extensive networking opportunities and social events. AAP members interested in submitting authors and obtaining forms and additional information should contact Tina Jordan at tjordan@publishers.org.

NOTEWORTHY

AAP Spotlights the Joys of Books Amidst Recent Toy Recalls

Responding to the August 15 announcement that safety concerns had prompted the recall of more than 9 million toys from the U.S. market--the third such recall in recent months--AAP pointed to the continuing importance of books in the lives of children. "Perhaps the publicity concerning lead-based paint and design flaws in a host of popular toys presents us with a 'teachable moment,'" said AAP President & CEO Pat Schroeder. "As parents and grandparents, we need to be reminded from time to time that the best stimulus for a child's imagination, the most memorable moments of childhood pleasure, lie between the covers of a book. We hope that some of those recalled toys are replaced with books—a board book, a picture book, a chapter book, a poetry book—that parents can read with their young children and encourage older kids to read on their own."

AAP Human Resources Seminar Set for November 8

AAP's annual Human Resources Seminar will be held on November 8 at the AAP New York office. Each year, for more than 20 years, AAP has commissioned a study of compensation and personnel practices in the U.S. book publishing industry. The survey, designed by human resources professionals, gathers and reports compensation and benefits information compiled from book publishers ranging from the largest media organizations to medium-sized organizations and small imprints. The report is prepared for AAP by Total Compensation Solutions, who will present highlights of the 2007 report at the seminar. Trends in salary administration and human resources as they relate to book publishing will be the focus of keynote sessions and roundtable discussions. To be placed on the email distribution list for further details when they are available contact Tina Jordan at tjordan@publishers.org

CALENDAR

SEPTEMBER

September 3rd, Monday
Labor Day – AAP offices are closed

September 5th, Wednesday
PSP/EIC Meeting, 12:30 p.m. – 2:30 p.m., Rooms 1 and 2 (SARA FIRESTONE)

September 6th, Thursday
PSP AMPC, 10:00 a.m. – 11:30 a.m., Rooms 1 and 2 (SARA FIRESTONE)

PSP Executive Council, 12:00 p.m.
– 3:00 p.m., Rooms 1 and 2 (SARA
FIRESTONE)

September 7th, Friday
PSP Books Committee, 12:30 p.m.
– 2:30 p.m., Rooms 1 and 2 (SARA
FIRESTONE)

September 10th, Monday
Copyright Committee, 12:00 p.m.
– 2:00 p.m., Rooms 1 and 2 (ALLAN
ADLER)

September 11th, Tuesday
AAP Board of Directors, 10:00 a.m.
– 2:30 p.m., Rooms 1 and 2 (TINA
JORDAN)
PLVA, 3:00 p.m. – 5:00 p.m., Rooms
1 and 2 (TINA JORDAN)

September 12th, Wednesday
PSP Journals Committee, 12:30 p.m.
– 2:00 p.m., Rooms 1 and 2 (SARA
FIRESTONE)

September 13th and 14th, Thursday
and Friday
DIWG (tentative) 11:00 a.m. – 3:00
p.m., Rooms 1 and 2 (ED McCOYD)

September 18th, Tuesday
IFTP, 12:00 p.m., Room 1 (MAR-
LENE SCHEUERMANN)

September 19th, Wednesday
Freedom to Read, 12:00 p.m. – 5:00
p.m., Rooms 1 and 2 (JUDY PLATT)

September 20th, Thursday
Trade Executive Meeting, 11:00 a.m.
– 3:00 p.m., Rooms 1 and 2 (TINA
JORDAN)
International Sales Meeting, 3:00
p.m. – 5:00 p.m., Rooms 1 and 2
(TINA JORDAN)

OCTOBER

October 4th, Thursday
AAP School Division's Annual Sum-
mit "Math and Science Education
– From Policy to Product to Practice"
in Arlington, VA (JAY DISKEY)

October 8th, Monday
Columbus Day –AAP offices are
closed

October 10th, Wednesday
Freedom to Read, 12:00 p.m. – 5:00
p.m., Rooms 1 and 2 (JUDY PLATT)

October 12th, Friday
PSP Books Committee, 12:30 p.m.
– 2:30 p.m., Rooms 1 and 2 (SARA
FIRESTONE)

October 16th, Tuesday
ICPC, 12:00 p.m. – 2:30 p.m., Rooms
1 and 2 (PATRICIA JUDD)

October 17th, Wednesday
PSP/EIC Meeting, 12:30 p.m. – 2:30
p.m., Rooms 1 and 2 (SARA FIRES-
TONE)

October 19th, Friday
PSP AMPC, 10:00 a.m. – 11:30
a.m., Rooms 1 and 2 (SARA FIRE-
STONE)
PSP Executive Council, 12:00 p.m.
– 3:00 p.m., Rooms 1 and 2 (SARA
FIRESTONE)

October 22nd, Monday
Copyright Committee, 12:00 p.m.
– 2:00 p.m., Rooms 1 and 2 (ALLAN
ADLER)

October 23rd, Tuesday
IFTP, 12:00 p.m., Room 1 (MAR-
LENE SCHEUERMANN)

October 30th, Tuesday
PSP Journals Committee, 12:30 p.m.

– 2:00 p.m., Rooms 1 and 2 (SARA
FIRESTONE)

NOVEMBER

November 8th, Thursday
Compensation Seminar (all day),
Rooms 1 and 2 (TINA JORDAN)

November 9th, Friday
PSP Books Boot Camp West Coast,
9:00 a.m. – 5:00 p.m. (SARA FIRE-
STONE)

November 12th – 18th, Monday –
Sunday
FYI: Children's Book Week

November 13th, Tuesday
PSP/EIC Meeting, 12:30 p.m. – 2:30
p.m., Rooms 1 and 2 (SARA FIRES-
TONE)

November 14th, Wednesday
AAP Board of Directors, 10:00 a.m.
– 2:00 p.m., Rooms 1 and 2 (TINA
JORDAN)
Freedom to Read Committee (at a site
to be determined) (JUDY PLATT)

November 15th, Thursday
PSP AMPC, 10:00 a.m.- 11:30 a.m.,
Rooms 1 and 2 (SARA FIRES-
TONE)
PSP Executive Council, 12:00 p.m.
– 3:00 p.m., Rooms 1 and 2 (SARA
FIRESTONE)

November 16th, Friday
PSP Books Seminar...Finance for
non-financials, 9:00 a.m. – 3:00 p.m.,
Rooms 1 and 2
(SARA FIRESTONE)

November 19th, Monday
Copyright Committee, 12:00 p.m.
– 2:00 p.m., Rooms 1 and 2 (ALLAN
ADLER)