

# Copyright in the Public Eye

UNTIL THE LATE 1990S copyright was more or less invisible to the general public. Now, technology allows consumers to be not only authors and copyright owners, but also unauthorized copiers and distributors on a scale and with an ease that has never before existed. For the first time ordinary consumers come face-to-face with copyright as something that regulates them directly. In this situation, the copyright owner is more likely to see the user as an infringer than as a customer. Copyright has entered the court of public opinion.

The issue now is whether the public understands and agrees with the purposes of copyright, whether they feel that copyright is in their interest as well as copyright owners' interests. A few decades ago organizations representing copyright owners and large institutional users agreed on copyright's core principles. The public was not involved in or aware of the making of copyright policy. Today, the substance of the debate is different. Many copyright skeptics are arguing that copyright laws do not work in today's environment.

The Founders knew what they were doing when they made explicit that Congress was to secure to authors an "exclusive Right." They understood that individual rights, especially property-like rights, were the key to establishing a stable and productive society. They also trusted copyright owners to use those rights for the public good by offering creative works to the public. It is important for copyright owners to fulfill their end of the bargain with the public — to use the exclusive rights they have been granted to provide the public with convenient access to copyrighted works.

*The purpose of the Constitution's copyright clause and subsequent legislation is to foster the growth of learning and culture for the good of the public. The grant of exclusive rights for a limited time is the means to that end.*

How copyright is perceived will largely depend on how technological measures limit reproduction and distribution in ways that are painless and invisible to the public. New services need to earn a reputation based on the things they allow people to do with copyrighted works, rather than on what they prevent people from doing.

The Copyright Office's work has an impact on how copyright fares in the court of public opinion. For instance, the Office is assisting Congress to address such issues as the liability of those who contribute to and facilitate infringement. Sensible application of doctrines of secondary liability would take the copyright burden off the individual consumer and place it on the entities that make infringement possible and profit from it.

In the area of education, the increasing number of people who are exposed to copyright need to understand what it is and why it exists. The Copyright Office's ongoing program of education and outreach seeks to decrease the distance between the users and the creators of copyrighted works, so that both understand the results of their mutual engagement with copyright principles and law.

The pages of this annual report indicate some of the ways in which the U.S. Copyright Office is helping to retain the good standing of copyright principles and law in the eyes of the public.