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"To promote the Progress of Science and useful Arts . . . ."

Report to the Librarian of Congress

by the Register of Copyrights

THE COPYRIGHT OFFICE

Fiscal 1968 was a year of present disappointment but continued hope for enactment of the bill for general revision of the copyright law. The revision bill, which had been passed by the House of Representatives on April 11, 1967, had also been the subject of 10 days of full-scale hearings in 1967 before the Senate Judiciary Subcommittee on Patents, Trademarks, and Copyrights. As the fiscal year began, the program for general revision appeared to have gained substantial legislative momentum.

Much of this momentum was lost in fiscal 1968. A combination of circumstances, arising primarily from the continuing controversy between copyright owners and cable television (CATV) operators, caused the Senate subcommittee to defer action on the revision bill during the 90th Congress. At the end of the fiscal year the proponents of the bill found themselves facing a difficult period of reappraisal, new decisions, and redrafting.

Although CATV turned out to be the most serious issue the revision bill has ever encountered, the first part of the fiscal year was occupied with another important problem: the use of copyrighted works in automatic information storage and retrieval systems. This issue, which had emerged during the course of the Senate hearings, pointed to the need for a meaningful and objective study of the interrelationships between the copyright law and the new information-transfer technology before definitive legislative solutions could be found. Accordingly, the Copyright Office prepared draft language for a bill to establish a national commission within the legislative branch to study the long-range implications of this problem and to recommend legislative solutions.

This draft bill was circulated, and on July 25, 1967, a large group of interested parties met under Senate subcommittee auspices to discuss its content and language. The response to the proposal was generally affirmative, and after undergoing some revision the bill was introduced as S. 2216 by Senator John L. McClellan on August 2, 1967. The commission bill was favorably reported by the Senate Judiciary Committee on October 11, 1967 (S. Rept. 640, 90th Cong., 1st sess.), and was passed by the Senate on October 16, 1967. The bill was then referred to the House Judiciary Committee, which deferred action because the general revision bill had been sidetracked.

S. 2216, a Bill to Establish in the Library of Congress a National Commission on New

Technological Uses of Copyrighted Works, provides for a 23-man commission composed of the Librarian of Congress as chairman, two Senators, two Representatives, seven members selected from authors and other copyright owners, seven members selected from users of copyrighted materials, and four nongovernmental members selected from the general public. The Register of Copyrights would serve as an ex officio member. The purpose of the commission would be to study the reproduction and use of copyrighted works in "automatic systems capable of storing, processing, retrieving, and transferring information," and also "by various forms of machine reproduction." Within three years after its creation the commission would recommend to the President and the Congress "such changes in copyright law or procedures that may be necessary to assure for such purposes access to copyrighted works, and to provide recognition of the rights of copyright owners."

Anticipating the early enactment of a general revision bill that would substantially lengthen the duration of copyrights already in effect, Congress had adopted in 1962, and again in 1965, two measures extending the length of copyrights otherwise due to expire. These extension acts were effective only through the end of 1967, and as the year wore on it became increasingly obvious that no general revision legislation could be passed before the deadline. Proposals to introduce a third extension bill, however, were met with strong efforts to add an amendment or rider providing a moratorium on copyright infringement actions against CATV operators.

This produced an impasse that threatened not only the temporary extensions of copyright but also the revision program itself. In an effort to break the deadlock the Copyright Office in August 1967 held a series of meetings culminating, on August 24, with a meeting attended by nearly 50 persons representing all of the interested groups. As a result of this meeting a temporary accommodation was reached and on October 3, 1967, Senator McClellan introduced Senate Joint Resolution 114, extending expiring renewal copyrights through December 31, 1968. Senator McClellan's statement in the *Congressional Record* explained that the measure was being introduced without the provision for a CATV moratorium in view of assurances by the major copyright proprietors that they would not institute copyright infringement suits against CATV operators without ample advance notice, as long as discussions in good faith between the interested parties were continuing toward the goal of "contractual arrangements" and "appropriate legislative formulas." The interim extension bill was passed by the Senate on October 19, 1967, and, after a short hearing in the House of Representatives on October 26, 1967, at which the Register of Copyrights was the only witness, it was passed by the House, becoming Public Law 90–141 on November 16, 1967.

The temporary agreement between the copyright owners and the CATV interests also resulted in a long series of meetings and discussions of their mutual problems and proposals for solutions. These meetings continued throughout the fiscal year and might conceivably have produced a compromise settlement had not the Supreme Court agreed, in December 1967, to review the decisions of the lower courts in *United Artists Television, Inc.* v. *Fortnightly Corp.* These decisions had held that certain activities of CATV systems constitute infringement under the present copyright law of 1909, and the prospect of a Supreme Court decision in the case effectively stalled the progress of the revision bill for the rest of the fiscal year.

As movement toward revision came to a standstill, the Register of Copyrights and others undertook efforts to preserve at least some of the accomplishments and momentum that had been achieved during the 90th Congress. These efforts took the form of proposals for a "skeleton" bill that would contain a number of the largely uncontroversial parts of the general revision bill while leaving such hotly disputed issues as cable television liability for separate consideration in the 91st Congress. The proposal for a skeleton bill came to an end on April 18, 1968, when, during a meeting sponsored by the Senate subcommittee, a letter from Senator McClellan to the Register of

Copyrights dated April 17 was made public. In his letter Senator McClellan made clear that, because "this approach presents serious and unavoidable complications," he was unable to support or recommend it. On the other hand, he expressed himself as favoring "action at the earliest feasible date on the entire revision program" and indicated his willingness to "recommend to the Subcommittee that the Senate should act first on this legislation in the next Congress" and to introduce another interim extension of expiring copyrights. In a statement delivered at the same meeting the Register of Copyrights accepted the failure of the skeleton bill approach but warned of the dangers confronting the revision program and the need for cooperative effort to avoid them.

The principal purpose of the April 18 meeting was to discuss, under Senate subcommittee auspices, the liability for certain uses of copyrighted material in computers and other new devices while the question is being studied by the proposed National Commission on New Technological Uses of Copyrighted Works. Although there were some differences of opinion, the maintenance of the status quo during this period seemed generally acceptable to representatives of both owners and users.

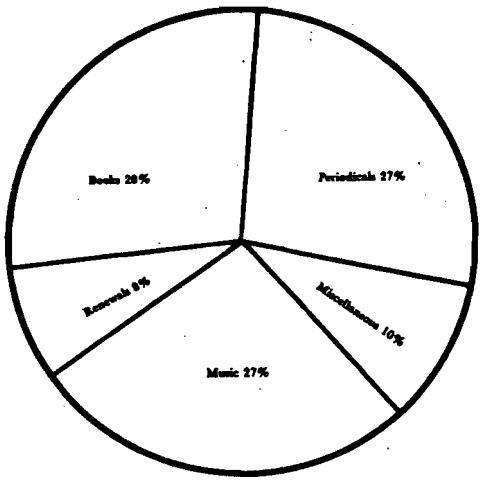
On May 22, 1968, as he had promised, Senator McClellan introduced Senate Joint Resolution 172 to extend the duration of expiring renewal copyrights through December 31, 1969. The measure was passed by the Senate on June 12, 1968, and by the House on July 15 and became law on July 23 (Public Law 90–416). The effect of this and the earlier extension enactments is to continue in force until the end of 1969 subsisting renewal copyrights that would have expired between September 19, 1962, and December 31, 1969. These extensions apply only to copyrights previously renewed in which the second term would otherwise expire; they do not apply to copyrights in their first term, and they have no effect on the time limits for renewal registration.

The fiscal year in general revision came to its climax on June 17, 1968, when the Supreme Court handed down its historic CATV decision in the *Fortnightly* case. The Court's decision, which is discussed below, held that the CATV operations involved in the suit were not "performances" of copyrighted material and were therefore free of copyright liability. This ruling substantially altered the balance of bargaining power on the cable television question. It did not have the effect of killing the revision program, but it emphasized both the urgency and the difficulty of finding a formula for the settlement of this important issue before any further progress toward general revision will be possible.

The Year's Copyright Business

Total copyright registrations amounted to 303,451 in fiscal 1968. This figure not only represents an increase of 3 percent over the previous year but also marks the first time in history that registrations have exceeded 300,000.

Total Copyright Registration by Classes, 1968



Miscellaneous **includes contributions to periodicals, lectures, dramas, works of art, reproductions of works of art, technical drawings, photographs, prints, commercial prints and labels, maps, and motion pictures.**

The total increase was reflected most significantly in book registrations, which gained by 5.3 percent to become the largest class of copyrighted material. The 1.5 percent increase in

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music registrations was less dramatic, and entries for periodicals remained about the same. Renewals resumed their upward trend with an increase of 9.7 percent, and three smaller classes showed advances: works of art (7.8 percent), art reproductions (7.7 percent), and motion pictures (8.4 percent). Although the class reflected a small increase in fiscal 1968, registrations for commercial prints and labels have declined no less than 55 percent from their high point in 1950. Reversing a recent trend, design registrations increased by nearly 8 percent, and designs for textile fabrics, which account for more than half the total, increased by 30 percent. Foreign registrations showed a substantial rise of 6 percent.

Fees earned for copyright services during the year reached an all-time high of $1,865,000. The Office handled a record-breaking total of over 326,000 applications submitted for registration and documents submitted for recordation. Of these 85.1 percent were disposed of without correspondence, 2.6 percent were rejected, and 12.3 percent involved one or more letters before favorable action could be taken. The Service Division conducted nearly 58,000 searches in connection with material being processed, prepared and filed 250,000 cards relating to pending material, and filed more than 154,000 correspondence case files.

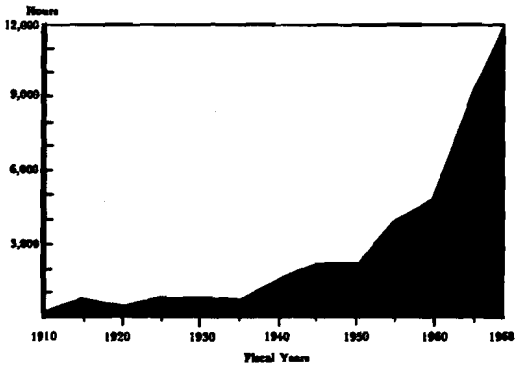
Work in the Cataloging Division rose sharply and for the first time the number of cards prepared and distributed topped the 2 million mark. Of this 2,180,000 total, 866,000 were added to the Copyright Card Catalog, 223,000 were sent to subscribers to the Cooperative Card Service, 90,000 were furnished to the Library of Congress, and 997,000 were used to produce copy for the semiannual issues of the printed *Catalog of Copyright Entries*.

One of the fastest-growing operations in the Copyright Office is its reference search activity. In fiscal 1968 nearly 13,000 searches were made in connection with over 139,000 titles. Total fees for this work amounted to $58,000.

Reference search work for the public was first recognized by law in the Copyright Act of 1909, which called for the payment of a fee for each hour of time consumed by the Copyright Office in searching its records, indexes, or deposits. During the first year, 126 hours of searching were done under this provision. Currently more than 11,000 hours a year are being paid for. This operation, carried on by the Reference Search Section, ranges from a search for a single registration requested by a motion picture company to a bibliographic report on the copyright facts of record for all the works of a prolific author requested by the attorney for his literary estate. Also requests by reprint houses and publishers of microreproductions have recently been growing at a rapid rate.

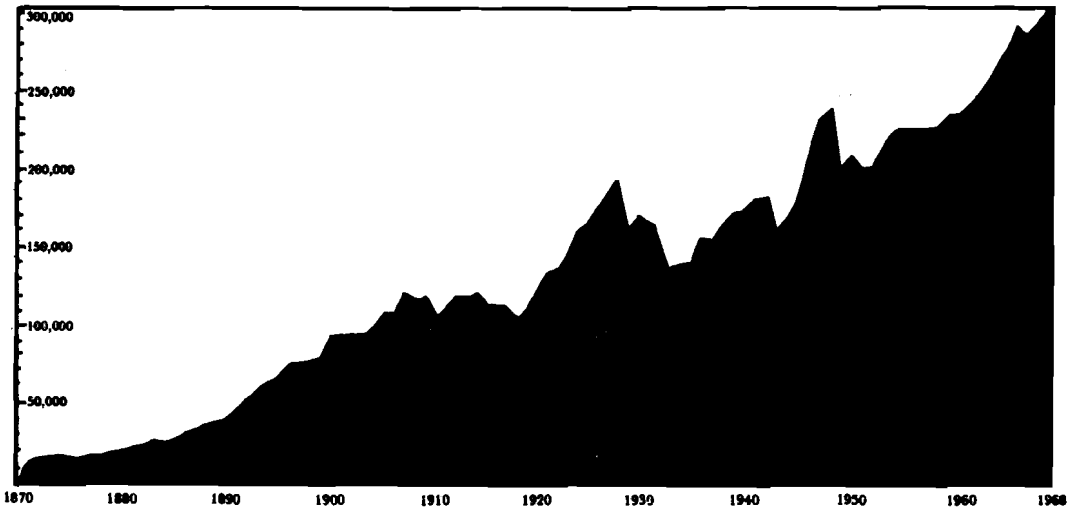
Since 1909 Congress has raised the search fee from 50 cents to $1 in 1928, to $3 in 1948, and to $5 in 1965, but these increases have had little effect on the demand. Indeed, the number of paid search hours has almost trebled since 1960. The accompanying graph shows these developments.

Paid Reference Search Hours, 1910–68



As the Office passed the 300,000 milestone in total registrations in fiscal 1968, this year's annual report is an appropriate place for a brief backward look at registration statistics. After a period of some 80 years during which copyright registration was made in the U.S. district courts throughout the country, this function was centralized in the Library of Congress in July 1870. At that time registra-

Total Registrations, 1870–1968



tions were made at the rate of slightly more than 10,000 a year. There was a steady increase until 1904, when registrations went beyond 100,000.

Two world wars and a great economic depression made the 200,000 mark harder to attain. Notwithstanding, the total reached 202,000 in 1946. Another period of constant growth, interrupted when Congress raised the registration fees in 1948 and 1965, culminated this fiscal year in more than 300,000 registrations.

Apart from the upward sweep itself, the most striking thing about these figures is probably that only once since 1870 has there been a period—in 1931, 1932, and 1933—when registrations decreased for as many as three consecutive years. These facts are made manifest in the above graph and in the table at the end of this report.

Official Publications

The Copyright Office took steps to reduce the backlog in the publication of the official *Catalog of Copyright Entries,* which in the last few years has been delayed because of shortages in staff and funds for printing. The total number of camera-ready pages produced was 9,095, as compared to 7,020 in 1967, and 11 issues were published during fiscal 1968. At the end of the year 16 issues were ready for printing, and the progress toward currency in catalog preparation and publication should continue into 1969.

A recent survey by the Superintendent of Documents shows that, in addition to paid subscriptions, all parts of the *Catalog of Copyright Entries* are distributed to more than 300 depository libraries throughout the Nation.

Decisions of the United States Courts Involving Copyright, 1965–66, compiled and edited by Benjamin W. Rudd of the Copyright Office, was issued as Copyright Office Bulletin No. 35. This is the 19th in a series of publications for official and public use and furnishes a valuable record of decisions reported in Federal and State courts involving copyright and related cases in the intellectual property field.

Copyright Contributions to the Library of Congress

Of the 485,000 articles deposited for registration in the Copyright Office during the fis-

cal year, 312,000 were transferred for the collections of the Library of Congress or were offered to other libraries through the Exchange and Gift Division. This represented an increase of 2.4 percent in receipts and of 16 percent in transfers. To cope with the continuing space problem created by the influx of deposits, the Service Division has undertaken a retirement program, which in fiscal 1968 involved a transfer of more than 1,700 boxes (2,000 square feet) to the Federal Records Center in Suitland, Md.

Nearly 19,000 registrations were obtained through compliance action, more than in any previous year and 54 percent more than in 1967. During the 20-year history of the Compliance Section, it has obtained more than a quarter of a million registrations. Fees for these registrations total well over $1 million and the deposit copies made available for the collections of the Library of Congress are valued at almost $5 million.

Administrative Developments

In a year of constant and intense activity directed at revision of the copyright law and the increasing problems of international copyright, it is a tribute to the staff of the Copyright Office that it was able to maintain nearly all operations on a current basis. The problems of lack of space began to assume alarming proportions during 1968, and much time and effort were expended in coping with difficulties caused by lack of room and unsatisfactory working conditions.

The uncertain future of copyright law revision has hampered long-range administrative planning in the Copyright Office, but management studies and some administrative reorganization were undertaken in 1968. To preserve the Office's basic records, most of which are unique and irreplaceable, a project to provide microfilm reproductions was undertaken during the year.

Extension Proclamations

In 1941 Congress empowered the President to grant by proclamation an extension of time to "authors, copyright owners, or proprietors of works first produced or published abroad" to enable them to comply with the conditions and formalities of the copyright law if they had been unable to do so because of the war. This amendment, which forms part of 17 U.S.C. § 9(b), authorizes the President to allow "such extension of time as he may deem appropriate" and makes these benefits available to "nationals of countries which accord substantially equal treatment" to U.S. citizens. A saving clause specifies that there shall be no liability for uses of works before the date of the proclamation, or for the continuance for one year after that date of any business enterprise lawfully undertaken earlier.

This measure, modeled after a similar bill enacted in 1919 to cover the period of World War I, has been the basis of proclamations for the benefit of the nationals of nine countries involved in World War II. The most recent relates to Germany. On July 12, 1967, the President signed and promulgated Proclamation 3792, which authorized German citizens who were unable to apply for U.S. copyright registration between September 3, 1939, and May 5, 1956, to do so within one year after the date of the proclamation. The Copyright Office Reference Division carried on a broad information campaign in cooperation with the Department of State, the Government of the Federal Republic of Germany, and leading international organizations concerned with copyright, to make the proclamation known as widely as possible among interested author and publisher groups. Approximately 75 original and 260 renewal registrations have been made, and a number of cases involving complex legal problems are still being dealt with in the Examining Division.

The table on the following page gives particulars about each of the proclamations issued under this provision.

Legislative Developments

Aside from the activity connected with the revision program, the most significant legislative step taken in the copyright field during the year was enactment of the Standard

World War II Extension Proclamations issued under the provisions of 17 U.S.C. §9(b)

Country	Period when proclamation was in effect	Period of disruption covered	References
Australia	12-29-49 through 12-29-50	9-3-39 through 12-29-50 [1]	64 Stat. A385
Austria	6-15-60 through 6-15-61	3-13-38 through 7-27-56	74 Stat. C69
Denmark	2-4-52 through 2-4-53	9-3-39 through 2-4-53 [1]	66 Stat. C20
Finland	11-16-51 through 11-16-52	9-3-39 through 11-16-52 [1]	66 Stat. C5
France	3-27-47 through 12-29-50 [2]	9-3-39 through 11-29-50 [1]	61 Stat. 1057 64 Stat. A413 [2]
Germany	7-12-67 through 7-12-68	9-3-39 through 5-5-56	32 Fed. Reg. 10341 (1967)
Italy	12-12-51 through 12-12-52	9-3-39 through 12-12-52 [1]	66 Stat. C13
New Zealand	4-24-47 through 12-29-50 [2]	9-3-39 through 12-29-50 [1]	61 Stat. 1065 64 Stat. A414 [2]
United Kingdom [3]	3-10-44 through 12-29-50 [2]	9-3-39 through 12-29-50 [1]	58 Stat. 1129 64 Stat. A412 [2]

[1] Proclamation does not specify when the period of disruption or suspension of facilities was considered to have ended. Date given is that on which the proclamation terminated.

[2] As the original proclamation did not give a termination date, a separate terminating proclamation was issued.

[3] United Kingdom of Great Britain and Northern Ireland (including certain British Territories) and Palestine.

Reference Data Act, Public Law 90-396, which was passed by the House of Representatives on August 14, 1967, and was finally approved on July 11, 1968. This measure directs the Secretary of Commerce to collect, evaluate, and disseminate standardized scientific and technical reference data; it permits him, as author or proprietor, to secure copyright on the material he prepares or makes available and to authorize its reproduction and publication by others. The act creates a specific exception to section 8 of the copyright law, the general provision prohibiting copyright in publications of the U.S. Government.

On April 3, 1968, Representative Theodore R. Kupferman introduced H.R. 16450, a bill to provide for taxing at the capital-gains rate, rather than as ordinary income, sums received as the result of certain transfers of property rights in literary, musical, and artistic works. This bill, almost identical to H.R. 14902, introduced in the 89th Congress by Mr. Kupferman, would eliminate the discriminatory tax treatment given authors and composers as against that accorded inventors. No action has been taken on this measure.

Congress also took no final action on other bills concerning copyright and related fields that had been introduced during the previous fiscal year.

At the State level an amendment was enacted, effective July 16, 1968, adding section 653h to the California Penal Code. The amendment makes it a misdemeanor for any person to transfer sounds from phonograph records or other recording devices to other such devices for purposes of profit without the consent of the owner of the master record or other item from which the sounds are derived, or to sell such articles with knowledge that the sounds were transferred without consent of the owner. The enactment makes certain exceptions for persons engaged in broadcasting.

On March 1, 1968, the U.S. Office of Education published in the *Federal Register* a statement of policy concerning copyright in materials produced under project grants or

contracts from the Office of Education. Under the new policy limited copyright protection may be authorized at the request of a grantee or contractor "upon a showing satisfactory to the Office of Education that such protection will result in more effective development or dissemination of the materials and would otherwise be in the public interest."

Judicial Developments

The most important American copyright case of the 1960's, *United Artists Television, Inc.* v. *Fortnightly Corp.*, 255 F. Supp. 177 (S.D.N.Y. 1966), *aff'd*, 377 F. 2d 872 (2d Cir. 1967), *rev'd*, 392 U.S. 390 (1968), was finally decided by the Supreme Court on June 17, 1968. The issue in the case was the liability for copyright infringement of so-called CATV systems (also known as community antenna television systems, cable television systems, wire TV systems, or rediffusion systems), which pick up and amplify broadcast signals containing copyrighted material and transmit them by wire to the television receivers of individual subscribers for a fee. In the case before the Court, the CATV system "neither edited the programs received nor originated any programs of its own," and it charged its customers "a flat monthly rate regardless of the amount of time that their television sets were in use." Under these particular facts the Supreme Court held that the defendant CATV system was not "performing" the plaintiff's copyrighted works and was therefore not liable for copyright infringement.

In holding that "CATV operators, like viewers and unlike broadcasters, do not perform the programs they receive and carry," Justice Stewart, speaking for the four-man majority, completely rejected the opinions in the two lower courts that had considered the issue. Judge Herlands, in the trial court, had held that "performance" for copyright purposes includes not only the initial rendition and the method of communicating it to an audience, but also the method by which the audience receives it. In the Court of Appeals, Chief Judge Lumbard, speaking for a unanimous court, had based the decision on "the result brought about; . . . the simultaneous viewing of plaintiff's copyrighted motion pictures on the television sets of as many as several thousand of defendant's subscribers." His opinion acknowledged that "Congress may have envisioned only what Judge Herlands termed the paradigm image of a public performance, an actor seen and heard by an audience assembled in his immediate presence," but he ruled that this "does not show that it meant to limit the concept of public performance to that paradigm when technological advances moved beyond it." The Court of Appeals had discarded arguments based on the technological effect of CATV operations and ruled that the "nub issue" was "how much did the defendant do to bring about the viewing and hearing of a copyrighted work."

The Supreme Court agreed that no significance should be attached "to the particular technology of the petitioner's systems" but expressly rejected the Court of Appeals' "how-much" test. Instead of a test based on "mere quantitative contribution," the Supreme Court expressly based its decision on "a determination of the function that CATV plays in the total process of television broadcasting and reception." In other words, the final decision in the case can be said to have adopted a "functional" rather than a "technological" or a "quantitative" test of performance. The Court drew a line between the functions of a broadcaster, whom it treated as an "active performer," and of a viewer, whom it considered a "passive beneficiary." Since functionally "a CATV system no more than enhances the viewer's capacity to receive the broadcaster's signals," the Court concluded that CATV "falls on the viewer's side of the line."

In reaching this conclusion the Court not only refused to follow the leading precedent in the field, the Supreme Court's own 1931 decision in *Buck* v. *Jewell-LaSalle Realty Co.*, 283 U.S. 191, but it specifically limited the effect of that decision to the narrow facts in the case: that is, as stated in the *Fortnightly* opinion, to a case in which "a hotel received on a master radio set an unauthorized broadcast of a copyrighted work and transmitted

that broadcast to all the public and private rooms of the hotel by means of speakers installed by the hotel in each room." Thus, the implications of the *Fortnightly* case in a wide range of areas, including wire and wireless transmissions and other uses, may be far-reaching.

That the decision's implications may not be quite as broad as some have suggested, however, is indicated by several factors in the opinion. At the outset Justice Stewart made it clear that the decision does not necessarily extend to CATV systems that "originate some of their own programs," and he qualified the statement that CATV merely "provides a well-located antenna with an efficient connection to the viewer's television set" with a cautious note reading: "While we speak in this opinion generally of CATV, we necessarily do so with reference to the facts of this case." Finally, in supporting the assertion that "the function of CATV systems has little in common with the function of broadcasters," the opinion appears to limit the impact of the *Fortnightly* decision to CATV systems that "do not in fact broadcast or rebroadcast," that "simply carry, without editing, whatever programs they receive," and that merely "receive programs that have been released to the public and carry them by private channels to additional viewers."

An important second issue considered in the lower courts was whether, assuming that what he does is a "performance," a CATV operator should be held to have an "implied-in-law license" to transmit broadcasts free of any copyright control. The Court of Appeals ruled against the argument that, once a copyrighted work has been licensed for public broadcasting, the transmission should be free to CATV operators and others for retransmission regardless of geographic boundaries. However, although it held that a copyright owner has a right to subdivide his exclusive right of performance and to license the subdivided parts separately, the Court of Appeals implied that, in a different case where the CATV subscribers could also receive the licensed broadcasts directly without special equipment, a CATV license might be implied as a matter of law. In the Supreme Court, Justice Stewart noted that, "since we hold that the petitioner's systems did not perform copyrighted works, we do not reach the question of implied license." He added, however, that any effort to find a compromise solution that would "accommodate various competing considerations of copyright, communications, and antitrust policy . . . is [a job] for Congress . . . . We take the Copyright Act of 1909 as we find it."

In his solitary dissent, Justice Fortas agreed that "the task of caring for CATV is one for the Congress . . . . Our ax, being a rule of law, must cut straight, sharp, and deep; and perhaps this is a situation that calls for the compromise of theory and for the architectural improvisation which only legislation can accomplish." Observing that the case "calls not for the judgment of Solomon but for the dexterity of Houdini," he took basic issue with the majority's "vague 'functional' test of the meaning of the term 'perform,' " which he considered an unsatisfactory oversimplification. Although, to his mind, "*Buck* v. *Jewell-LaSalle* may not be an altogether ideal gloss on the word 'perform,' . . . it has at least the merit of being settled law," and he decried the need to "overrule that decision in order to take care of this case or the needs of CATV." Justice Fortas noted specifically that "the new rule may well have disruptive consequences outside the area of CATV."

A close reading of the majority opinion suggests that the Court was deeply concerned with the possibilities of monopoly control in the broadcasting industry, as well as with the dangers of exorbitant retroactive liability. Moreover, the implication that the Supreme Court may favor some degree of Government regulation of the CATV industry, as an alternative to indirect control of program markets through copyright licensing, can be drawn from its June 10, 1968, opinion in *United States* v. *Southwestern Cable Co.*, 392 U.S. 157, fully upholding the jurisdiction of the Federal Communications Commission over CATV operations.

Actions Against the Register

The case of *Public Affairs Associates, Inc.* v. *Rickover,* a declaratory judgment action in-

volving the right of Adm. Hyman G. Rickover to secure copyright in certain of his speeches, finally came to an end after nine years in the courts. In 1959 the district court had ruled, on the basis of an agreed statement of facts, that the speeches were not prepared by Admiral Rickover as a part of his official duties and were consequently copyrightable by him, and that none of the works had been published without notice of copyright. In the Circuit Court of Appeals this decision was affirmed on the first point but reversed on the second. The case was then taken to the Supreme Court, which remanded it to the district court for an "adequate and full-bodied record," 369 U.S. 111 (1962). At this juncture, the Register of Copyrights and the Librarian of Congress, as well as the Secretary of the Navy, the Secretary of Defense, and the Atomic Energy Commissioners, were added as defendants. Admiral Rickover also abandoned his claim to copyright in all but two of the works, thereby removing the publication question from litigation. After extensive preliminary proceedings and a long trial, the court ruled for the Government defendants and for Admiral Rickover, holding that the speeches were handled as "private business from start to finish," 268 F. Supp. 444 (D.D.C. 1967).

With reference to the Register, the court stated that copyright registration calls for "executive judgment" not within the power of the court to control. Public Affairs Associates thereafter took steps to appeal but, on January 29, 1968, the Court of Appeals issued a *per curiam* order dismissing the case for failure of appellant to file its brief within the required time limit.

During the year the case of *Hoffenberg* v. *Kaminstein,* 396 F. 2d 684 (D.C. Cir. 1968), *cert. denied,* 393 U.S. 913 (1968), also came to a close. The case involved the novel *Candy* by Mason Hoffenberg and Terry Southern. The Copyright Office had declined to register on the grounds that work failed to comply with the ad interim provision of the copyright statute requiring that English-language books by American citizens be submitted for registration within six months after the date of first publication if they were first published by the distribution of copies manufactured abroad. The Circuit Court of Appeals, in confirming the decision of the district court, stated that the position of the Copyright Office accurately reflected the intention of Congress. Subsequently a petition for writ of certiorari to the Supreme Court was filed and denied.

Subject Matter of Copyright and Scope of Rights

Arrangements of artificial flowers were the subject of litigation in *Gardenia Flowers, Inc.* v. *Joseph Markovits, Inc.,* 280 F. Supp. 776 (S.D.N.Y. 1968). The artificial flowers themselves were presumably in the public domain, so that the plaintiff's claim related only to the arrangements; and the court found no creativity or originality. It was also held that plaintiff's decision to use plastic material for fabrication of the articles "does not constitute the creativity required for copyright purposes."

Lace designs were alleged to have been infringed in *Klauber Brothers, Inc.* v. *Lady Marlene Brassiere Corp.,* 285 F. Supp. 806 (S.D.N.Y. 1968). The judge pointed out, as one of his reasons for denying a preliminary injunction, that lace designs, unlike textile fabric designs, appear to have a longer commercial life, so that delay in obtaining relief would create less likelihood of prejudice to plaintiff's rights.

In the case of *United Merchants and Manufacturers, Inc.* v. *Sutton,* 282 F. Supp. 588 (S.D.N.Y. 1967), the judge granted a preliminary injunction against infringement of certain textile fabric designs. In reaching its decision the court followed the principle that "a work does not have to be strikingly unique or novel to be copyrightable," and that a finding of infringement is warranted "if an observer possessing ordinary qualities of discernment who was not attempting to discover disparities would be taken in."

Articles published in the New York weekly newspaper *The National Enquirer* were held to have been infringed by their unauthorized publication in the defendant's competing Chicago weekly in the case of *Best Medium Publishing Co., Inc.* v. *National Insider, Inc.,* 385

F. 2d 384 (7th Cir. 1967), *cert. denied,* 390 U.S. 955 (1968). The appellate court, in affirming the judgment of the trial court, stated that the articles were protectible by copyright even though they were derived from other sources, since they consisted of a "different adaptation and arrangement of words."

Plantiff in *G. R. Leonard & Co.* v. *Stack,* 386 F. 2d 38 (7th Cir. 1967), was publisher of a directory of parcel post, express, and freight rates, designed for the use of shippers, and defendant published a work in the same field. The question was whether, when a publisher has made his own compilation, he may then use that of another if he merely compares and checks his work with the earlier one. In a split decision the circuit court affirmed judgment for defendant, holding that "a compiler of a directory or the like may make fair use of an existing publication serving the same purposes if he first makes an honest, independent canvass." Judge Cummings dissented, expressing the view that the findings of noninfringement were clearly erroneous; he based his position in part on evidence that defendant had copied five of 50 "trap entries," these being nonexistent towns listed by plaintiff in his book.

Avins v. *Rutgers, the State University of New Jersey,* 385 F. 2d 151 (3d Cir. 1967), raised an interesting question concerning the scope of the rights of authors. Plaintiff sought to have an article published in the *Rutgers Law Review* and asserted that its editors had adopted a discriminatory policy of accepting only articles reflecting a particular outlook in constitutional law, and that the rejection of his article by an instrumentality of a State-supported university denied his constitutional rights. In confirming the decision of the district court, the Circuit Court of Appeals for the Third Circuit stated that although plaintiff has the right to print and distribute his article, "he does not have the right, constitutional or otherwise, to commandeer the press and columns" of the law review and that, on the contrary, the acceptance or rejection of articles submitted for publication in a law school review "necessarily involves the exercise of editorial judgment and this is in no wise lessened by the fact that the law review is supported, at least in part, by the State."

Architectural Drawings

The Supreme Court of Utah in *Ashworth* v. *Glover,* 156 U.S.P.Q. 219 (1967), faced a wide range of important problems concerning architectural drawings. The plaintiff, an architect, designed a drive-in restaurant for the owner, who paid plaintiff for his services. In the course of time plaintiff delivered 25 sets of the plans to contractors interested in bidding on the construction; from each of them he received a $25 deposit, which in some cases was forfeited by the contractors keeping the plans. A set was also filed with the local planning and zoning commission to secure a building permit. The plans were accompanied by specifications, which stated that the "General Conditions of the Contract for the Construction of Buildings" as approved by the American Institute of Architects should be considered a part of the specifications and could be viewed in the architect's office. The "General Conditions" included the statement that the drawings and specifications furnished by the architect were his property, were not to be used on other work, and were to be returned to him on request. An employee of the drive-in owner permitted defendant, a competitor of his employer, to copy the plans, and went to work for defendant when his building was completed.

Justice Henriod, speaking for the majority in a three-to-two decision, stated that the distribution of the plans to the contractors did not dedicate to the world plaintiff's common law right. Moreover, he rejected as untenable the argument that filing with the city commission was a general publication resulting in the loss of plaintiff's right.

Justice Ellett dissented on the ground that the rights of plaintiff terminated when he was paid, since he did not specifically reserve them in his contract with the drive-in owner. Justice Wahlquist concurred in the dissent, adding that the building was virtually made of glass, as well as open to the public, and questioning whether in such a situation the

architect could preserve his common law rights.

Ownership, Notice, and Publication

Widespread interest and concern were evoked by a series of cases involving contributions to periodicals. In *Best Medium Publishing Co.* v. *National Insider, Inc.*, 259 F. Supp. 433 (N.D. Ill. 1966), *aff'd*, 385 F. 2d 384 (7th Cir. 1967), *cert. denied*, 390 U.S. 955 (1968), the district court held that the authors transferred all their rights to the publisher, although custom and usage provide that freelance authors selling to a tabloid convey only first rights. In *Goodis* v. *United Artists Television, Inc.*, 278 F. Supp. 122 (S.D.N.Y. 1968), it was held that plaintiff's authorization for a one-time serialization of his novel resulted in the loss of his rights, since the installments did not bear a copyright notice in his name, and also that the general notice in the name of the publisher of the magazine did not secure copyright in these contributions, inasmuch as the magazine publisher was a mere licensee rather than the assignee of the rights. Similarly in *Kinelow Publishing Co.* v. *Photography in Business, Inc.*, 270 F. Supp. 851 (S.D.N.Y. 1967), the court held that according to established usage in the field of technical trade periodicals the publisher receives only a license to publish and "the general or 'blanket' copyright in a periodical does not protect rights in a specific article contained therein unless copyright privileges or a proprietary right have been previously assigned to the publisher."

In an action concerning a textile fabric design, *United Merchants and Manufacturers, Inc.* v. *Sarne Co.*, 278 F. Supp. 162 (S.D.N.Y. 1967), the court held that there was compliance with the statute where the copyright notice appeared on the selvage of each 27-inch repeat of the design; where more than 325,000 yards of fabric was produced and systematically inspected for the presence of the notice, its absence, owing to shrinkage, on only a small percentage, the court held, was an accidental omission not invalidating the copyright.

In another textile case involving the same plaintiff, *United Merchants and Manufacturers, Inc.* v. *Sutton*, 282 F. Supp. 588 (S.D. N.Y. 1967), a notice on the selvage of each yard of the goods was held sufficient. Also it was held in *Florence Art Co.* v. *Quartite Creative Corp.*, 158 U.S.P.Q. 382 (N.D. Ill. 1968), that copyright in a sculptured lamp was not lost since the notice appeared on all copies and was "always noticeable, although in some cases partially unclear."

The court held that notices on removable tags which were slipped onto the stems of artificial flowers were insufficient compliance with the law in *Gardenia Flowers, Inc.* v. *Joseph Markovits, Inc.*, 280 F. Supp. 776 (S.D.N.Y. 1968), citing the provision on that subject in the Regulations of the Copyright Office, 37 C.F.R. § 202.2(b)(9).

In accordance with a long line of cases, the court held in *Frederick Chusid & Co.* v. *Marshall Leeman & Co.*, 279 F. Supp. 913 (S.D.N.Y. 1968), that the use of a 1961 year date in the notice on a work first published in 1963 did not nullify the copyright since the misdating "was in favor of the public." The subject of divestitive publication was also dealt with in the *Chusid* case, in which the court ruled that the "lack of general interest in a highly specialized brochure, the fact that in order to receive the desired services clients must return the materials to Chusid and that no right of republication had ever been granted, when coupled with the financial barrier to access, sufficiently isolates the material from the public to negate a forfeiture or intent to dedicate it to the general public as common property."

Registration

The growing number of cases that have stressed the weight of the certificate of registration was increased by the holding in *United Merchants and Manufacturers, Inc.* v. *Sarne Co.*, 278 F. Supp. 162 (S.D.N.Y. 1967), that the "certificate of registration constitutes prima facie evidence of the facts stated therein and, in the absence of contradictory evidence, is sufficient proof to establish a valid copyright."

A particularly interesting decision dealing with the evidentiary value of the certificate was *Norton Printing Co.* v. *Augustana Hospital,* 155 U.S.P.Q. 133 (N.D. Ill. 1967), in which Judge Decker, in denying a pretrial motion to dismiss a case involving forms for use in connection with medical laboratory tests, referred to the statement in the Regulations of the Copyright Office, 37 C.F.R. § 202.1(c), that "works designed for recording information which do not in themselves convey information" are not copyrightable and cannot be the basis for registration. He concluded that since registration had been made it was "prima facie evidence that the Copyright Office considered that these forms convey information."

The effect of a certificate of registration was also an issue in *Gardenia Flowers, Inc.* v. *Joseph Markovits, Inc.,* 280 F. Supp. 776 (S.D.N.Y. 1968), where the court stated that the certificate initially places the burden "upon the defendant to produce sufficient evidence to overcome this presumption of validity," but that proof by defendant of facts contrary to the certificate "shifts the burden of overcoming such evidence to plaintiff . . . even upon issues over which the Register may have exercised his discretion, for such exercise is subject to judicial review."

Alart Associates, Inc., v. *Aptaker,* 279 F. Supp. 268 (S.D.N.Y. 1968), concerned defendants' motion for summary judgment on the basis of the inadvertent omission of the word "Associates" from plaintiff's name on the application and certificate, even though plaintiff had made a corrective registration; the court denied the motion, stating that "in the absence of prejudice, an innocent clerical error in the application and certificate of registration, unaccompanied by fraud, does not invalidate the copyright or render it incapable of supporting an infringement action." In a motion for reconsideration, *Alart Associates, Inc.* v. *Aptaker,* 157 U.S.P.Q. 494 (S.D.N.Y. 1968), defendants relied on a letter from the Deputy Register of Copyrights regarding procedures for correcting registrations under the Regulations of the Copyright Office, 37 C.F.R. § 201.5(a); the court also denied this motion, pointing out that the letter supported rather than weakened plaintiff's contention that the certificate had been adequately corrected.

Renewal and Transfer of Rights

The Supreme Court decided in 1956, in *De Sylva* v. *Ballentine,* 351 U.S. 570, that the widow and children of an author succeed to the right of renewal as a class, rather than the widow taking precedence, a question which had previously been unsettled, and that an illegitimate child may be included within the term "children" if applicable State law so provides. The first point was involved in *Easton* v. *Universal Pictures Co.,* 288 N.Y.S. 2d 776 (Sup. Ct. 1968), which concerned the story *Destry Rides Again,* by Frederick Faust, who died in 1944. The court held that when in 1951 all the author's children joined with their mother in signing a document establishing a trust and assigning the inchoate right of renewal, to which was prefixed a ratification and confirmation by the children, the renewal rights of the children passed also, even though "they had, in fact, as the law then appeared to be, nothing to assign." The case of *In re Williams,* 156 U.S.P.Q. 704 (Ala. Cir. Ct. 1968), which relates to the second point in *Ballentine,* holds that, although an illegitimate child of a deceased author may be entitled to the right of renewal, this right is lost as the result of permanent adoption by third persons.

In a controversy concerning the renewal right the question of employment for hire was held in *Rytvoc, Inc.* v. *Robbins Music Corp.,* 157 U.S.P.Q. 613 (S.D.N.Y. 1967), to involve "inquiry into the relationship between the author and his employer including the employer's right to exert supervision and control over the composer's efforts," which the court regarded as "plainly issues of fact" that could not be resolved by summary judgment.

Each time technological progress develops a new means of communication it leaves in its wake controversies about whether earlier transfers of the rights of authors included the right of use in the new medium. One such case was *Bartsch* v. *Metro-Goldwyn-Mayer,*

Inc., 270 F. Supp. 896 (S.D.N.Y. 1967), *aff'd*, 391 F. 2d 150 (2d Cir. 1968), *cert. denied*, 393 U.S. 826, involving the operetta *Maytime*. The circuit court, affirming the result in the lower court, held that the phrase in the 1930 conveyance giving the transferee the right "to copyright, license and exhibit such motion picture photoplays throughout the world" was meant to include the right to telecast. A finding of particular importance in arriving at this result was that "during 1930 the future possibilities of television were recognized by knowledgeable people in the entertainment and motion picture industries."

A somewhat similar point was litigated in *Goodis* v. *United Artists Television, Inc.*, 278 F. Supp. 122 (S.D.N.Y. 1968), concerning use of the novel *Dark Passage* as the basis for the television series *The Fugitive*. Here the court found that the language of the contract, which made a broad grant to the motion picture company and reserved to plaintiff the right to broadcast by television "from performances by living actors," conveyed the right to make additional photoplays.

Government Publications

A significant ruling concerning works prepared by Government officials, in the same general area as *Public Affairs Associates, Inc.* v. *Rickover*, already discussed, is an opinion of the Comptroller General of the United States, No. B–163867, dated May 21, 1968, 158 U.S.P.Q. 172.

The opinion, in the form of a reply by Assistant Comptroller General Frank H. Weitzel to a letter from Senator John J. Williams, deals with the publication of the *Report of the National Advisory Commission on Civil Disorders* (the "Kerner Report") by a commercial publisher before it was available to the public through the Government Printing Office, and with the fact that the commercial edition was "under copyright." The opinion states that the copyright in the commercial edition was limited to the material its publisher contributed and that "the report itself was in the public domain from the first." The opinion adds that "no single publisher should have been granted a pecuniary advantage without fully offering the same opportunity to others."

Copyright and Unfair Competition

The U.S. courts have continued to struggle with the questions left unanswered by the 1964 Supreme Court decisions in *Sears, Roebuck & Co.* v. *Stiffel Co.*, 376 U.S. 225, and *Compco Corp.* v. *Day-Brite Lighting, Inc.*, 376 U.S. 234. As stated in a recent opinion (*Hemingway* v. *Random House, Inc.*, 53 Misc. 2d 462 (Sup. Ct. 1967)), these decisions "have made it increasingly dubious whether one whose action is basically in copyright may, if he fails to make out a case under those laws, prevail nonetheless by recharacterizing his claim as one in unfair competition."

One of the most important decisions in this area was handed down in the "Paladin" case, *Columbia Broadcasting System, Inc.* v. *DeCosta*, 377 F. 2d 315 (1st Cir. 1967), *cert. denied*, 389 U.S. 1007 (1967). The basic question in that case was whether plaintiff was entitled to protection for his character of Paladin "upon mere proof of creation by the plaintiff and copying by the defendants, and nothing else." The First Circuit Court of Appeals ruled that the leading case supporting recovery in a situation like this, *International News Service* v. *Associated Press*, 248 U.S. 215 (1918), "is no longer authoritative" and "has clearly been overruled by the Supreme Court's recent decisions" in the *Sears* and *Compco* cases.

The court went on to consider "the scope of state power in this area in view of *Sears* and *Compco*," and reaffirmed that their impact falls equally on both copyright and patent law. Judge Coffin then posed a fundamental and crucial question which no court had hitherto decided explicitly: "Does the language in *Compco*, 'whatever the federal patent and copyright laws leave in the public domain,' refer to creations that Congress had deliberately chosen not to protect or more broadly to those it has simply not protected, whether by choice or by chance?" The court held expressly that, "if a 'writing' is within the scope of the constitutional clause, and Congress has not

protected it, whether deliberately or by unexplained omission, it can be freely copied." Since in the court's view plaintiff's literary character was a "writing" in the constitutional sense, its publication destroyed all rights to prevent its unauthorized reproduction under either State or Federal law.

The first decision since the *Sears* and *Compco* cases to hold a State statute unconstitutional because of its conflict with the Federal copyright law was handed down in *State's Attorney for Prince George's County* v. *Sekuler*, 158 U.S.P.Q. 231 (Md. Ct. App. 1968). The statute in question made it a misdemeanor to reproduce for profit tax maps produced by the Maryland State government. Justice McWilliams, speaking for the Maryland Court of Appeals, conceded that "there are some copyright cases that seem not to follow Sears and Compco" but ruled them distinguishable "chiefly because they are concerned with 'misappropriation' and 'unfair competition' laws." The statute in question was found unconstitutional under the *Sears* and *Compco* doctrine because, rather than being "aimed at the prohibition of any use which would mislead the public as to the source of the maps," it "simply prohibits absolutely their reproduction or duplication for the purpose of selling them for profit, thereby creating a monopoly for the State." The court noted that the ordinary defenses available in an unfair competition action would be useless in a prosecution under the statute and suggested that, while the State would be free to bring an "unfair competition" action despite *Sears* and *Compco*, it could not predict the result.

International Developments

Fiscal 1968, which began with the signing on July 14, 1967, of the Stockholm text of the Berne Convention for the Protection of Literary and Artistic Works, was a year of crisis and indecision in international copyright. No additional countries acceded to any of the multilateral copyright conventions after the Stockholm Conference, although the United Kingdom declared the Universal Copyright Convention applicable to St. Vincent (one of the Windward Islands), effective November 10, 1967. The nations of Southern Yemen, Nauru, and Mauritius achieved independence, and the present status of their copyright relations with the United States is unclear.

Aside from the Stockholm Act and its aftermath, the most important international copyright development of the year was the treaty signed on November 17, 1967, establishing bilateral copyright relations between the Soviet Union and Hungary. This treaty, which entered into force on January 1, 1968, and is to remain in effect for three years from that date, represents the first agreement between the USSR and another country involving copyright. It applies only to works of Russian or Hungarian citizens who are also residents of one of the two countries and, although it covers works already in existence as well as works created after its effective date, the agreement provides a limited copyright term consisting of the life of the author plus 15 years. Each country agrees to protect works of the other country to the extent it protects its own works, but article 6 of the treaty provides that "no royalty shall be payable for the utilization of a work protected under this Convention in the country of the one Contracting Party, in cases when the citizens of the said Party are not entitled to royalties for the identical utilization of their works in the territory of the other Contracting Party."

The 1967 Stockholm Conference on Intellectual Property was originally planned to revise the text of the Berne Convention, and it succeeded in making some technical reforms and clarifying the language in the substantive provisions of the treaty. Among these changes were substantial revisions in the articles dealing with eligibility criteria, country of origin, and publication, an explicit recognition of the right of reproduction, compromise provisions aimed at facilitating the international exchange of motion pictures, an extension in the duration of an author's "moral right," and the adoption of longer terms of protection for motion pictures, photographs, and works of applied art. The Conference also adopted sweeping revisions in the administrative pro-

visions of the Berne Convention and established a new World Intellectual Property Organization (WIPO).

But the most significant and controversial outcome of the Stockholm Conference was the Protocol Regarding Developing Countries, an instrument of six articles that is appended as an integral part of the Berne Convention. The protocol was the outgrowth of a proposal to establish, within the Berne framework, a lower-level system of protection to meet the special needs of developing countries. Under the leadership of India the developing countries put forward a program for broad exemptions to the exclusive rights of authors. The text adopted, in broad terms, would permit a country, for as long as it is considered to be "developing," to make any or all of five exceptions to the protection it offers to works of other Berne countries. These exceptions involve a more limited term, restrictions on broadcasting, translation, and reproduction rights, a form of compulsory license for translations and reproductions under certain circumstances, a broad restriction on exclusive rights with respect to teaching, study, and research, and provisions on currency exchange and exports favorable to the developing countries. There is also a provision under which a country can voluntarily bind itself under the protocol without first ratifying the Stockholm Act.

At the end of the Stockholm Conference it was made clear that, if a developing country that is now a member of the Berne Union decides neither to ratify the Stockholm Act nor to bind itself voluntarily under the protocol, it is not obliged to allow the use of its works under the lower standards in any Union country. In the light of this principle it is significant that several major Berne countries, notably the United Kingdom, refrained from the formal act of signing the text of the Stockholm Act. There was also an outcry against the protocol in some of the developed countries, including the United States as well as the United Kingdom, and as time went on there was increasing speculation as to whether the Stockholm text, including the protocol, would turn out to be a stillborn child.

In December 1967, in an atmosphere of confusion and uncertainty, the Intergovernmental Copyright Committee of the Universal Copyright Convention and the Permanent Committee of the Berne Union held their regular biennial meetings in Geneva. At the outset, the UNESCO secretariat reasserted its efforts to obtain repeal of the "Berne Safeguard Clause" of the Universal Copyright Convention, the provision aimed at preventing a Berne Union member from denouncing Berne and relying on the UCC for its copyright relations. In a statement on December 13, 1967, the U.S. Register of Copyrights opposed revisions in the UCC aimed either at removing the Berne Safeguard Clause or at further lowering the level of protection. Instead he put forward an alternative program seeking a reversal of the trend toward lower protection in international copyright, the development of a new program aimed at bringing order out of chaos in multilateral copyright relations, and international agreement on a workable program that would meet the real needs of developing countries. In response to this and other proposals, the committees adopted resolutions aimed at determining the intentions of Berne members with respect to the protocol and at establishing a joint group for the study of the whole range of international copyright problems after replies to inquiries concerning UCC revision and the protocol have been received.

As the fiscal year ended no country had ratified the Stockholm Act, although the provisions of the protocol came into effect between Senegal and Bulgaria on January 11, 1968, as the result of voluntary declarations filed by the two countries. In March 1968 a working group was convened in Geneva to advise the Director of BIRPI "on the ways and means of creating financial machinery to insure a fair and just return to authors for the use of their works pursuant to the provisions of the Protocol Regarding Developing Countries." However, the working party was unable to propose any recommendations, since it was unwilling to assume that the protocol would actually come into force. At the meetings in December 1967 the UNESCO secretariat an-

nounced that it had received seven of the 10 requests necessary to call a revision conference, and the other three were later received.

The United States opposed UCC revision until after the joint study group had met to consider the entire question.

Respectfully submitted,

ABRAHAM L. KAMINSTEIN
Register of Copyrights

International Copyright Relations of the United States as of December 1, 1968

This table shows the status of United States copyright relations with other independent countries of the world.

The following code is used:

UCC	Party to the Universal Copyright Convention, as is the United States.
BAC	Party to the Buenos Aires Convention of 1910, as is the United States.
Bilateral	Bilateral copyright relations with the United States by virtue of a proclamation or treaty.
Unclear	Became independent since 1943. Has not established copyright relations with the United States, but may be honoring obligations incurred under former political status.
None	No copyright relations with the United States.

Country	Status of copyright relations
Afganistan	None.
Albania	None.
Algeria	Unclear.
Andorra	UCC.
Argentina	UCC, BAC, Bilateral.
Australia	Bilateral.
Austria	UCC, Bilateral.
Barbados	Unclear.
Belgium	UCC, Bilateral.
Bhutan	None.
Bolivia	BAC.
Botswana	Unclear.
Brazil	UCC, BAC, Bilateral.
Bulgaria	None.
Burma	Unclear.
Burundi	Unclear.
Cambodia	UCC.
Cameroon	Unclear.
Canada	UCC, Bilateral.
Central African Republic	Unclear.
Ceylon	Unclear.
Chad	Unclear.
Chile	UCC, BAC, Bilateral.
China	Bilateral.
Colombia	BAC.
Congo (Brazzaville)	Unclear.
Congo (Kinshasa)	Unclear.
Costa Rica	UCC, BAC, Bilateral.
Cuba	UCC, Bilateral.
Cyprus	Unclear.
Czechoslovakia	UCC, Bilateral.
Dahomey	Unclear.
Denmark	UCC, Bilateral.
Dominican Republic	BAC.
Ecuador	UCC, BAC.
El Salvador	Bilateral by virtue of Mexico City Convention, 1902.
Equatorial Guinea	Unclear.
Ethiopia	None.
Finland	UCC, Bilateral.
France	UCC, Bilateral.
Gabon	Unclear.
Gambia	Unclear.
Germany	Bilateral; UCC with Federal Republic of Germany.

Country	Status of copyright relations
Ghana	UCC.
Greece	UCC, Bilateral.
Guatemala	UCC, BAC.
Guinea	Unclear.
Guyana	Unclear.
Haiti	UCC, BAC.
Holy See (Vatican City)	UCC.
Honduras	BAC.
Hungary	Bilateral.
Iceland	UCC.
India	UCC, Bilateral.
Indonesia	Unclear.
Iran	None.
Iraq	None.
Ireland	UCC, Bilateral.
Israel	UCC, Bilateral.
Italy	UCC, Bilateral.
Ivory Coast	Unclear.
Jamaica	Unclear.
Japan	UCC.
Jordan	Unclear.
Kenya	UCC.
Korea	Unclear.
Kuwait	Unclear.
Laos	UCC.
Lebanon	UCC.
Lesotho	Unclear.
Liberia	UCC.
Libya	Unclear.
Liechtenstein	UCC.
Luxembourg	UCC, Bilateral.
Madagascar	Unclear.
Malawi	UCC.
Malaysia	Unclear.
Maldive Islands	Unclear.
Mali	Unclear.
Malta	UCC.
Mauritania	Unclear.
Mauritius	Unclear.
Mexico	UCC, BAC, Bilateral.
Monaco	UCC, Bilateral.
Morocco	Unclear.
Muscat and Oman	None.
Nauru	Unclear.
Nepal	None.
Netherlands	UCC, Bilateral.
New Zealand	UCC, Bilateral.
Nicaragua	UCC, BAC.
Niger	Unclear.
Nigeria	UCC.
Norway	UCC, Bilateral.
Pakistan	UCC.
Panama	UCC, BAC.
Paraguay	UCC, BAC.
Peru	UCC, BAC.
Philippines	Bilateral; UCC status undetermined.
Poland	Bilateral.
Portugal	UCC, Bilateral.
Rumania	Bilateral.
Rwanda	Unclear.
San Marino	None.
Saudi Arabia	None.
Senegal	Unclear.
Sierra Leone	Unclear.
Singapore	Unclear.
Somalia	Unclear.
South Africa	Bilateral.
Southern Yemen	Unclear.
Soviet Union	None.
Spain	UCC, Bilateral.
Sudan	Unclear.
Swaziland	Unclear.
Sweden	UCC, Bilateral.
Switzerland	UCC, Bilateral.
Syria	Unclear.
Tanzania	Unclear.
Thailand	Bilateral.
Togo	Unclear.
Trinidad and Tobago	Unclear.
Tunisia	Unclear.
Turkey	None.
Uganda	Unclear.
United Arab Republic (Egypt)	None.
United Kingdom	UCC, Bilateral.
Upper Volta	Unclear.
Uruguay	BAC.
Venezuela	UCC.
Vietnam	Unclear.
Western Samoa	Unclear.
Yemen	None.
Yugoslavia	UCC.
Zambia	UCC.

Total Registrations, 1870–1968 [1]

1870	5,600	1903	97,979	1936	156,962
1871	12,688	1904	103,130	1937	154,424
1872	14,164	1905	113,374	1938	166,248
1873	15,352	1906	117,704	1939	173,135
1874	16,283	1907	123,829	1940	176,997
1875	15,927	1908	119,742	1941	180,647
1876	14,882	1909	120,131	1942	182,232
1877	15,758	1910	109,074	1943	160,789
1878	15,798	1911	115,198	1944	169,269
1879	18,125	1912	120,931	1945	178,848
1880	20,686	1913	119,495	1946	202,144
1881	21,075	1914	123,154	1947	230,215
1882	22,918	1915	115,193	1948	238,121
1883	25,274	1916	115,967	1949	201,190
1884	26,893	1917	111,438	1950	210,564
1885	28,411	1918	106,728	1951	200,354
1886	31,241	1919	113,003	1952	203,705
1887	35,083	1920	126,562	1953	218,506
1888	38,225	1921	135,280	1954	222,665
1889	40,985	1922	138,633	1955	224,732
1890	42,794	1923	148,946	1956	224,908
1891	48,908	1924	162,694	1957	225,807
1892	54,735	1925	165,848	1958	238,935
1893	58,956	1926	177,635	1959	241,735
1894	62,762	1927	184,000	1960	243,926
1895	67,572	1928	193,914	1961	247,014
1896	72,470	1929	161,959	1962	254,776
1897	75,000	1930	172,792	1963	264,845
1898	75,545	1931	164,642	1964	278,987
1899	80,968	1932	151,735	1965	293,617
1900	94,798	1933	137,424	1966	286,866
1901	92,351	1934	139,047	1967	294,406
1902	92,978	1935	142,031	1968	303,451

[1] Figures from 1870 through 1897 are for the calendar year; figures from 1898 through 1968 are for the fiscal year.

Registrations by Subject Matter Classes, Fiscal Years 1964–68

Class	Subject matter of copyright	1964	1965	1966	1967	1968
A	Books (including pamphlets, leaflets, etc.)	[1] 71,618	[1] 76,098	77,300	80,910	85,189
B	Periodicals (issues)	[1] 74,611	[1] 78,307	77,963	81,647	81,773
	(BB) Contributions to newspapers and periodicals	2,529	2,095	1,717	1,696	2,026
C	Lectures, sermons, addresses	1,112	848	911	996	1,050
D	Dramatic or dramatico-musical compositions	3,039	3,343	3,215	3,371	3,214
E	Musical compositions	75,256	80,881	76,805	79,291	80,479
F	Maps	1,955	3,262	1,933	2,840	2,560
G	Works of art, models, or designs	5,915	5,735	5,164	4,855	5,236
H	Reproductions of works of art	4,045	3,241	2,595	2,586	2,785
I	Drawings or plastic works of a scientific or technical character	893	1,239	867	695	628
J	Photographs	995	860	677	722	734
K	Prints and pictorial illustrations	3,325	2,927	3,081	2,740	3,109
	(KK) Commercial prints and labels	7,013	7,509	6,285	5,862	5,972
L	Motion-picture photoplays	3,018	2,536	1,983	1,771	1,450
M	Motion pictures not photoplays	1,089	1,216	906	925	1,472
R	Renewals of all classes	22,574	23,520	25,464	23,499	25,774
	Total	[1] 278,987	[1] 293,617	286,866	294,406	303,451

[1] Adjusted figure.

Number of Articles Deposited, Fiscal Years 1964–68

Class	Subject matter of copyright	1964	1965	1966	1967	1968
A	Books (including pamphlets, leaflets, etc.)	141,412	[1] 150,453	152,632	159,954	168,452
B	Periodicals	149,073	156,092	155,382	162,763	162,988
	(BB) Contributions to newspapers and periodicals	2,529	2,095	1,717	1,696	2,026
C	Lectures, sermons, addresses	1,112	848	911	996	1,050
D	Dramatic or dramatico-musical compositions	3,413	3,816	3,590	3,780	3,599
E	Musical compositions	95,287	[1] 102,548	97,622	101,071	101,704
F	Maps	3,910	6,523	3,863	5,680	5,120
G	Works of art, models, or designs	10,367	10,196	9,123	8,549	9,016
H	Reproductions of works of art	8,084	6,482	5,120	5,122	5,440
I	Drawings or plastic works of a scientific or technical character	1,347	1,925	1,369	1,075	992
J	Photographs	1,594	1,460	1,109	1,186	1,239
K	Prints and pictorial illustrations	6,647	[1] 5,854	6,162	5,453	6,212
	(KK) Commercial prints and labels	14,022	[1] 15,017	12,570	11,707	11,909
L	Motion-picture photoplays	5,984	5,034	3,886	3,469	2,828
M	Motion pictures not photoplays	2,049	[1] 2,258	1,742	1,725	2,841
	Total	446,830	[1] 470,601	456,798	474,226	485,416

[1] Adjusted figure.

Number of Articles Transferred to Other Departments of the Library of Congress, Fiscal Years 1964–68 [1]

Class	Subject matter of articles transferred	1964	1965	1966	1967	1968
A	Books (including pamphlets, leaflets, etc.)	56,493	68,218	68,470	66,046	105,329
B	Periodicals	151,476	162,194	164,522	169,963	172,193
	(BB) Contributions to newspapers and periodicals	2,529	2,095	1,717	1,696	2,026
C	Lectures, sermons, addresses	0	0	0	0	0
D	Dramatic or dramatico-musical compositions	351	356	816	394	313
E	Musical compositions	25,132	25,081	23,847	23,490	24,485
F	Maps	3,915	6,523	3,994	5,697	5,127
G	Works of art, models, or designs	204	204	177	234	160
H	Reproductions of works of art	729	296	545	444	598
I	Drawings or plastic works of a scientific or technical character	0	0	142	0	2
J	Photographs	2	2	8	44	37
K	Prints and pictorial illustrations	150	81	257	464	643
	(KK) Commercial prints and labels	248	9	8	57	38
L	Motion-picture photoplays	795	559	230	294	88
M	Motion pictures not photoplays	430	217	414	280	746
	Total	242,454	265,835	265,147	269,043	311,785

[1] Extra copies received with deposits and gift copies are included in these figures. This is the reason that in some categories the number of articles transferred exceeds the number of articles deposited, as shown in the preceding chart.

Summary of Copyright Business, Fiscal Year 1968

Balance on hand July 1, 1967		$473,949.15
Gross receipts July 1, 1967 to June 30, 1968		1,940,758.60
Total to be accounted for		2,414,707.75
Refunded	$86,759.90	
Checks returned unpaid	3,404.70	
Deposited as earned fees	1,871,794.18	
Balance carried over July 1, 1968:		
Fees earned in June 1968 but not deposited until July 1968	$159,478.25	
Unfinished business balance	56,959.13	
Deposit accounts balance	232,738.75	
Card service	3,572.84	
	452,748.97	
		2,414,707.75

Summary of Copyright Business, Fiscal Year 1968—Continued

	Number of registrations	Fees earned
Commercial prints and labels at $6	5,936	$35,616.00
Published domestic works at $6	192,225	1,153,350.00
Published foreign works at $6	3,745	22,470.00
Unpublished works at $6	64,092	384,552.00
Renewals at $4	25,774	103,096.00
Total registrations for fee	291,772	1,699,084.00
Fee adjustments for prior years [1]		90.00
Total fees for registrations		1,699,174.00
Registrations made under provisions of law permitting registration without payment of fee for certain works of foreign origin	11,679	
Total registrations	303,451	
Fees for recording assignments		48,058.50
Fees for indexing transfers of proprietorship		23,767.00
Fees for recording notices of intention to use		324.50
Fees for recording notices of use		20,410.00
Fees for certified documents		5,392.50
Fees for searches made		58,604.00
Card Service		9,758.32
Total fees exclusive of registrations		166,314.82
Total fees earned		1,865,488.82

[1] An additional $2 was collected for each of 45 registrations which were made at $4 when it was determined that the correct fee was $6.

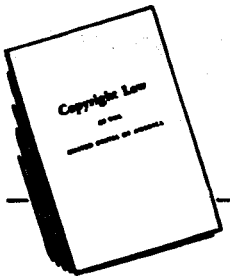
Gross Cash Receipts, Fees, and Registrations, Fiscal Years 1964–68

Fiscal year	Gross receipts	Yearly fees earned	Number of registrations	Increase or decrease in registrations
1964	$1,206,453.60	$1,133,546.57	278,987	+14,142
1965	1,274,813.94	1,208,014.66	293,617	+14,630
1966	1,624,081.45	1,470,249.12	286,866	−6,751
1967	1,892,419.54	1,812,036.15	294,406	+7,540
1968	1,940,758.60	1,865,488.82	303,451	+9,045
Total	$7,938,527.13	$7,489,335.32	1,457,327	

Publications of the Copyright Office

Priced Copyright Office publications which may be obtained from Government Printing Office

Orders for all the publications listed below should be addressed and remittances made payable to the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.



COPYRIGHT LAW OF THE UNITED STATES OF AMERICA (Title 17, United States Code), Bulletin No. 14. This is a pamphlet edition of the copyright law, including the REGULATIONS OF THE COPYRIGHT OFFICE (Code of Federal Regulations, Title 37, ch. II). 87 pages. 1967. 35 cents.

COPYRIGHT ENACTMENTS—Laws Passed in the United States Since 1783 Relating to Copyright. Bulletin No. 3 (Revised). Looseleaf in binder. 150 pages. 1963. $2.

REPORT OF THE REGISTER OF COPYRIGHTS ON THE GENERAL REVISION OF THE U.S. COPYRIGHT LAW. Copyright Law Revision, House Committee Print. 160 pages. July 1961. 45 cents.

COPYRIGHT LAW REVISION, PART 2—Discussion and Comments on Report of the Register of Copyrights on the General Revision of the U.S. Copyright Law. House Committee Print. 419 pages. February 1963. $1.25.

COPYRIGHT LAW REVISION, PART 3—Preliminary Draft for Revised U.S. Copyright Law and Discussions and Comments on the Draft. House Committee Print. 457 pages. September 1964. $1.25.

COPYRIGHT LAW REVISION, PART 4—Further Discussions and Comments on Preliminary Draft for Revised U.S. Copyright Law. House Committee Print. 477 pages. December 1964. $1.25.

COPYRIGHT LAW REVISION, PART 5—1964 Revision Bill with Discussions and Comments. House Committee Print. 350 pages. September 1965. $1.

COPYRIGHT LAW REVISION, PART 6—Supplementary Report of the Register of Copyrights on the General Revision of the U.S. Copyright Law: 1965 Revision Bill. House Committee Print. 338 pages. May 1965. $1.

HEARINGS ON 1965 REVISION BILL. SUBCOMMITTEE NO. 3 OF THE HOUSE COMMITTEE ON THE JUDICIARY. May–September 1965. In 3 parts, including an appendix of letters and other statements, as well as a combined subject and name index. 2,056 pages. 1966. Part 1, $2; Part 2, $2.25; Part 3, $2.

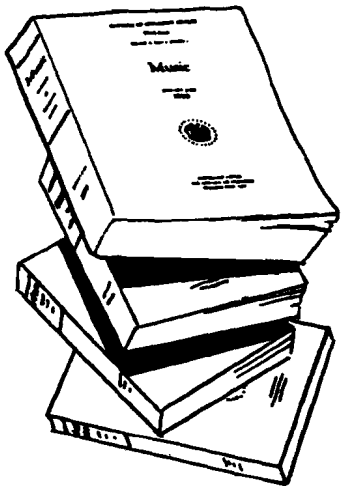
COPYRIGHT LAW REVISION. REPORT OF THE HOUSE COMMITTEE ON THE JUDICIARY. 89th Cong., 2d Sess., H. Rept. No. 2237. 279 pages. 1966. 65 cents.

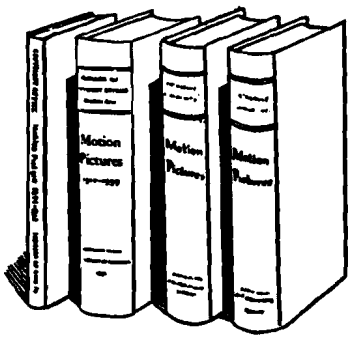
COPYRIGHT LAW REVISION. REPORT OF THE HOUSE COMMITTEE ON THE JUDICIARY. 90th Cong., 1st Sess., H. Rept. No. 83. 254 pages. 1967. 60 cents.

CATALOG OF COPYRIGHT ENTRIES. Paper. Each part of the catalog is published in semiannual numbers containing the claims of copyright registered during the periods January–June and July–December. The prices given below are for the year. Semiannual numbers are available at one-half the annual price.

Beginning with volume 20, number 1, 1966, *Third Series* of the Catalog, the annual subscription price for all parts of the complete yearly catalog is $50. For information on the availability and price of issues published before 1966, write to the Register of Copyrights, Library of Congress, Washington, D.C. 20540.

Part 1—Books and Pamphlets Including Serials and Contributions to Periodicals	$15 [$5]
Part 2—Periodicals	5 [2]
Parts 3–4—Dramas and Works Prepared for Oral Delivery	5 [2]
Part 5—Music	15 [7]
Part 6—Maps and Atlases	5 [1]
Parts 7–11A—Works of Art, Reproductions of Works of Art, Scientific and Technical Drawings, Photographic Works, Prints and Pictorial Illustrations	5 [2]
Part 11B—Commercial Prints and Labels	5 [2]
Parts 12–13—Motion Pictures and Filmstrips	5 [1]
Annual Subscription Price, all parts	50 [20]





Catalog of Copyright Entries, Cumulative Series

MOTION PICTURES 1894–1912. Works identified from the records of the United States Copyright Office by Howard Lamarr Walls. 92 pages. 1953. Buckram, $2.

MOTION PICTURES 1912–1939. Works registered in the Copyright Office in Classes L and M. 1,256 pages. 1951. Buckram, $18.

MOTION PICTURES 1940–1949. Works registered in the Copyright Office in Classes L and M. 599 pages. 1953. Buckram, $10.

MOTION PICTURES 1950–1959. Works registered in the Copyright Office in Classes L and M. 494 pages. Buckram, $10.

These four volumes list a total of nearly one hundred thousand motion pictures produced since the beginning of the motion picture industry.

Bulletins

DECISIONS OF THE UNITED STATES COURTS INVOLVING COPYRIGHT. The series contains substantially all copyright cases, as well as many involving related subjects which have been decided by the Federal and State courts. Cloth.

1909–14 (Bull. No. 17)	$1.75	1949–50 (Bull. No. 27)	2.75
1914–17 (Bull. No. 18)	2.50	1951–52 (Bull. No. 28)	2.75
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1924–35 (Bull. No. 20)	3.75	1955–56 (Bull. No. 30)	4.50
1935–37 (Bull. No. 21)	.75	1957–58 (Bull. No. 31)	2.75
1938–39 (Bull. No. 22)	2.00	1959–60 (Bull. No. 32)	3.00
1939–40 (Bull. No. 23)	2.25	1961–62 (Bull. No. 33)	2.75
1941–43 (Bull. No. 24)	2.75	1963–64 (Bull. No. 34)	2.75
1944–46 (Bull. No. 25)	2.25	1965–66 (Bull. No. 35)	3.75
1947–48 (Bull. No. 26)	1.75		

Cumulative Index, 1909–1954 (Bulletins 17–29) $1.75. Complete set, including Index $51.50.
Prices are subject to change.

Copyright Law Revision Studies

COPYRIGHT LAW REVISION. These studies were prepared with the assistance of the Copyright Office for the Subcommittee on Patents, Trademarks, and Copyrights of the Committee on the Judiciary, U.S. Senate, and were published as committee prints by that committee. They are no longer available for purchase from the Superintendent of Documents. For information about obtaining copies, write to the Register of Copyrights, Library of Congress, Washington, D.C. 20540.

First committee print; Studies 1–4. 142 pages. 1960.
1. The History of U.S.A. Copyright Law Revision from 1901 to 1954
2. Size of the Copyright Industries
3. The Meaning of "Writings" in the Copyright Clause of the Constitution
4. The Moral Right of the Author.

Second committee print; Studies 5 and 6. 125 pages. 1960.
5. The Compulsory License Provisions of the U.S. Copyright Law
6. The Economic Aspects of the Compulsory License.

Third committee print; Studies 7–10. 125 pages. 1960.
7. Notice of Copyright
8. Commercial Use of the Copyright Notice
9. Use of the Copyright Notice by Libraries
10. False Use of Copyright Notice.

Fourth committee print; Studies 11–13. 155 pages. 1960.
11. Divisibility of Copyrights
12. Joint Ownership of Copyrights
13. Works Made for Hire and on Commission.

Fifth committee print; Studies 14–16. 135 pages. 1960.
14. Fair Use of Copyrighted Works
15. Photoduplication of Copyrighted Material by Libraries
16. Limitations on Performing Rights.

Sixth committee print; Studies 17–19. 135 pages. 1960.
17. The Registration of Copyright
18. Authority of the Register of Copyrights to Reject Applications for Registration
19. The Recordation of Copyright Assignments and Licenses.

Seventh committee print; Studies 20 and 21. 81 pages. 1960.
20. Deposit of Copyrighted Works
21. The Catalog of Copyright Entries.

Eighth committee print; Studies 22–25. 169 pages. 1960.
22. The Damage Provisions of the Copyright Law
23. The Operation of the Damage Provisions of the Copyright Law: An Exploratory Study
24. Remedies Other Than Damages for Copyright Infringement
25. Liability of Innocent Infringers of Copyright.

Ninth committee print; Studies 26–28. 116 pages. 1961.
26. The Unauthorized Duplication of Sound Recordings
27. Copyright in Architectural Works
28. Copyright in Choreographic Works.

Tenth committee print; Studies 29–31. 237 pages. 1961.
29. Protection of Unpublished Works
30. Duration of Copyright
31. Renewal of Copyright.

Eleventh committee print; Studies 32–34. 57 pages. 1961.
32. Protection of Works of Foreign Origin
33. Copyright in Government Publications
34. Copyright in Territories and Possessions of the United States.

Subject Index to Studies 1–34. 38 pages. 1961.

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