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# Contents

Copyright Office	1
"By Securing to Authors"	1
Progress Toward Full Automation	1
Reorganization	1
Semiconductor Chip Protection	2
Labor/Management Working Group	2
Examining Division Lecture Series	2
Vintage Jukebox	3
Workload and Production	3
Acquisitions and Processing Division	3
Examining Division	3
Information and Reference Division	4
Records Management Division	4
Cataloging Division	5
Licensing Division	5
Copyright Office Regulations	5
Deposit Regulations	5
Cable Television	6
Information	6
Cancellation of Registration	6
Public Announcements	6
Notices of Inquiry	7
Legislative Developments	7
Reporting to Congress	9
Judicial Developments	9
U.S. Supreme Court	9
Copyright Office Litigation	10
Constitutional Questions	11
Subject Matter of Copyright	12
Formalities	13
International Developments	14
Tables	
International Copyright Relations of the United States as of September 30, 1985	16
Number of Registrations by Subject Matter, Fiscal 1985	21
Summary of Copyright Business, Fiscal 1985	22
Disposition of Copyright Deposits, Fiscal 1985	23
Estimated Value of Materials Transferred to the Library of Congress	24
Financial Statement of Royalty Fees for Compulsory Licenses for Secondary Transmissions by Cable Systems for Calendar Year 1984	25
Financial Statement of Royalty Fees for Compulsory Licenses for Coin-Operated Players (Jukeboxes) for Calendar Year 1985	25
Copyright Registrations 1790-1985	26

**“To promote the Progress of Science and useful Arts . . . .”**

# Report to the Librarian of Congress by the Register of Copyrights

## THE COPYRIGHT OFFICE

On September 23 the Copyright Office welcomed a new Register of Copyrights, Ralph Oman, who was appointed in August. Formerly Chief Counsel to the U.S. Senate Judiciary Subcommittee on Patents, Copyrights, and Trademarks, Mr. Oman became the tenth Register of Copyrights. He follows former Register David Ladd, who resigned on January 2, 1985, to return to private law practice. The Associate Librarian of Congress, Donald C. Curran, served as Acting Register of Copyrights in the interim.

### **"By Securing to Authors"**

"By Securing to Authors: Copyright, Commerce, and Creativity in America," a permanent exhibit paying tribute to the creative ingenuity of America's authors, artists, and entrepreneurs and to the role that copyright has played in providing an incentive for that ingenuity, opened December 12 on the fourth floor of the Madison Building. Many of the panels illustrate landmark legal decisions. Among the items displayed are the falcon statue used in the movie *The Maltese Falcon*, an original 1898 Wallace Shows circus poster, an unusual photograph of Oscar Wilde, and the typewritten copy of Martin Luther King's "I Have a Dream" speech. Original book deposits from 1790 contrast sharply with modern deposits of computer software and video games in the displays.

### **Progress toward Full Automation**

With the inauguration of the cash phase of the Copyright Office In-Process System (COINS III) in September, all fee services of the Copyright Office can now be tracked online. The system, which is the result of several years of cooperative effort by the staffs of the Copyright Office and

the Automated Systems Office, allows online tracking of not only copyright applications accompanied by cash payments but also of requests for recordation of documents, certifications, searches, and various other services. The fully automated tracking system will provide both an officewide online record of fee services and a way to measure the workload as it enters and goes through the office.

An automatic call distribution system was installed in the Information and Reference Division's Public Office in January. The system distributes calls to available information specialists, queues calls if all lines are busy, and supplies recorded information on the Copyright Office hotline, the address and hours of service of the Public Office, time required to process applications for copyright registration, etc.

To comply with a provision of the Semiconductor Chip Protection Act of 1984 that requires a public record to be made of each work registered, changes were made to the online cataloging system, COPICS, enabling mask works to be incorporated into the monograph file and making them accessible through online searching.

### **Reorganization**

In July 1985 the Copyright Office completed plans for a reorganization that will shift the responsibilities of several divisions. A new Deposits and Acquisitions Division will be created to carry out responsibilities under section 407 of the copyright law for acquisition of materials for the Library of Congress. The division will interact with other acquisition units within the Library as well as with the publishing industry and the Department of Justice. The Records Management Division will be abolished and its units that provide information and access to records concerning copyright registrations

will be transferred to the Information and Reference Division. The Certificate Production Unit will become part of the Receiving and Processing Division, formerly known as the Acquisitions and Processing Division.

The 1,000 to 1,500 documents related to copyright ownership that the Copyright Office examines per month will now be given special door-to-door service in a Documents Unit created as part of the Cataloging Division. The documents project began on an experimental basis and was officially established in July.

### **Semiconductor Chip Protection**

On November 8, 1984, President Reagan signed into law the Semiconductor Chip Protection Act of 1984, Public Law 98-620, which became effective on January 7, 1985. The act amends Title 17 of the U.S. Code by adding a chapter that creates for semiconductor chips a new kind of federal protection that is neither copyright nor patent law. The act protects the three-dimensional layered circuitry designs of semiconductor chips, known as mask works, against unauthorized duplication for a term of ten years. Protection begins on the date of registration of the mask work or the date of first commercial exploitation, whichever occurs earlier. The protection terminates if an application for registration is not filed in the Copyright Office within two years after the date of the first commercial exploitation.

The Semiconductor Chip Protection Act provided that a registration system for mask works had to be established in the Copyright Office within sixty days of passage of the act. The office established a Mask Work Unit in the Examining Division within that timeframe and also created a mask work application form and circular. By June 1985 the Mask Work Unit had processed more than sixteen hundred claims to protection under the act.

The Office of the General Counsel and the Examining Division collaborated in developing new regulations covering deposit requirements for mask works. On January 3, 1985, the Copy-

right Office issued interim regulations, and on June 28 the final regulations were published in the *Federal Register*. The regulations set forth specific requirements for registration, including the nature of the copies to be deposited. They also provide for recordation of documents pertaining to mask works, furnish examples of methods for affixation of the mask work notice, and establish the fees for Copyright Office services involving mask works.

### **Labor/Management Working Group**

Throughout the year the Labor/Management Working Group (LMWG), consisting of the executive officer and representatives from both AFSCME units, worked toward better communication between staff and management and toward implementing consultative management. In cooperation with satellite groups established in the divisions, the LMWG sponsored training in problem-solving and in conducting effective meetings, as well as seminars on career counseling services and the filling out of job application forms. Some satellite groups arranged get-togethers for new employees. To celebrate its first anniversary, the LMWG sponsored a "BIG" (best in government) event in June in the Coolidge Auditorium. Guest speaker Ron Contino, Deputy Commissioner of the New York City Sanitation Department, explained how consultative management was working in his department.

### **Examining Division Lecture Series**

The Examining Division inaugurated a series of lectures and seminars designed to broaden the horizons of Copyright Office staff. Entitled "A View from the Other Side," the series featured important participants in various aspects of the copyright process, including copyright attorney Stanley Rothenberg, graphic designers Edith and Philip Leonian, attorney William Krasilovsky, music publisher Leonard Feist, and Justice Department attorney John Fargo. Also sponsored

by the Examining Division were the 1985 Vintage Music Year concerts, with tributes to the anniversaries of Handel, Bach, Scarlatti, Schuetz, and Alban Berg. In this series Washington Post music critic emeritus Paul Hume presented a free form demonstration and lecture about musical creativity and composer Jerzy Sapieyevski lectured on the roots of creativity.

### Vintage Jukebox

In March the Rock-ola Manufacturing Corporation formally presented a vintage Rock-ola jukebox and plaque to the Library of Congress on behalf of the Amusement and Music Operators Association and the National Sound Industries of Mexico. The Licensing Division of the Copyright Office, which administers the jukebox compulsory license, hosted the ceremony. The jukebox is on display in the Licensing Division.

## WORKLOAD AND PRODUCTION

### Acquisitions and Processing Division

It was a year of increasing work levels for the Acquisitions and Processing Division as registrations increased by 7.6 percent to 551,722 and special handling requests totaled 1,674.

A major task of this division during the fiscal year was the creation of a plan to separate the acquisitions functions from the processing functions. By the end of the year this reorganization plan had been accomplished and the Deposits and Acquisitions Section was ready to become a full division.

The mission of the Deposits and Acquisitions Section, operating under section 407 of the copyright law, is to acquire copyrighted works needed for the Library's collections by enforcing the law's deposit provisions. During fiscal 1985 the section acquired \$460,623 worth of materials, including 340 titles for the Motion Picture, Broadcasting, and Recorded Sound Division as well as numerous other valuable books, prints, microfiche editions, and sound recordings. A

study was undertaken of policies in the area of compliance actions against foreign publishers.

The cash phase of the Copyright Office In-Process System (COINS III) was placed in production on September 12, 1985, enhancing the Acquisitions and Processing Division's ability to track the flow of materials and services from the day they enter the system in the Data Preparation and Recording Unit until certificates are issued. The division played an important role in redesigning the workflow and retraining staff.

A pilot project was inaugurated to address the problem of missing elements, an incomplete claims handling area was established under the Materials Control Section, and staff from the Compliance Records Unit and Materials Expediting Unit worked to bring missing elements under a central control.

### Examining Division

The Examining Division continued to seek ways to streamline and simplify work procedures in the face of rising receipts without a commensurate increase in staffing levels. Division staff participated in various task groups working on problems involved in registering products of new technologies such as databases, computer programs, and semiconductor chip products. Other task groups helped develop new practices and policies in such areas as the registration of choreography, unpublished collections, and derivative works containing copyrighted material. Division staff members drafted circulars and leaflets on audiovisual works, multimedia works, and databases.

As the implementation of COINS III brought new challenges, the division continued to seek better technologies for organizing its work. Staff members worked on task groups preparing recommendations for the Exception Tracking System, an extension of COINS that will replace the older Correspondence Management System.

To implement the Semiconductor Chip Protection Act, the Examining Division not only developed new forms and procedures but also trained staff and a supervisor to examine semi-

conductor products. The Mask Work Unit processed more than sixteen hundred registration claims and completed 916 registrations.

Registrations for works in the visual arts showed substantial increases, as did appeals and requests for special handling of visual arts claims. A dramatic increase in the numbers of renewal registrations, particularly for music, seemed to be related to the emergence of rock and roll music and television productions in the mid 1950's. The Renewals Section also began accepting renewal applications for foreign works eligible for protection in the United States in accordance with the provisions of the Universal Copyright Convention.

The division initiated two inhouse serial publications—a monthly report of trends and developments in copyright and related fields that affect the division and a report of recent court decisions of interest to examiners. Workshops were held for senior examiners and supervisors on examining supplementary copyright registrations to ensure uniformity among the sections. The division also undertook a project to eliminate a large backlog of basic and supplementary registrations that were awaiting annotations.

#### **Information and Reference Division**

As the Information and Reference Division's workload continued to increase in almost every area of responsibility, the division made special efforts to fulfill its goal of providing accurate, useful, and timely information and services. The staff coped ably with the increased demands in spite of the fact that there were no increases in staffing levels. A major factor in accomplishing this feat was the creation of a detailed, formal work plan representing the consensus of staff in all sections about what the division's activities and priorities should be during the year.

Service to the public was significantly improved this year with the installation on January 28 of a ROLM automatic call distribution system in the Information Section. The system not only accommodates the large number of calls the office receives and distributes them more

evenly to available information specialists but also provides valuable statistics on service demands.

Better tracking of the status of search requests was a result of the installation of an IBM computer in the Reference and Bibliography Section. In addition, the time-consuming manual filing systems used previously can now be eliminated.

A step toward comprehensive revision of application forms was taken during the year as a task group chaired by the chief of the Information and Reference Division began analyzing recommendations on form content and design. Drafts of thirteen forms were created for circulation to the staff for comment.

New Dictaphone recorders were installed in the Publication Section to increase the quality of service on the Publications and Forms Hotline, an after-hours automatic request recording service.

The division contributed to the opening of the permanent copyright exhibit, "By Securing to Authors," by handling public relations, organizing a reception marking the occasion, arranging press coverage, and helping produce the exhibit poster and catalog.

Staff from the division represented the Copyright Office at conferences and meetings of the American Library Association, American Booksellers Association, American Bar Association, and numerous other organizations.

Publications produced during the year included volumes 1 and 2 of the *Compendium of Copyright Office Practices*, the *Annual Report of the Register of Copyrights for 1983 and 1984*, several new circulars (including R100, *Federal Statutory Protection for Mask Works*, R9, *Works Made for Hire*, and R64, *Registration for Secure Tests*), and numerous announcements and regulations.

#### **Records Management Division**

During fiscal 1985 the Records Management Division participated in the task of reallocating the functions of the division into two other divi-



sions as part of the overall Copyright Office reorganization. The record-keeping functions of the division became part of the Information and Reference Division, which has also been involved in providing information about copyright records to the public. Early in the year the Registration Numbering Unit merged with the Certificate Production Unit in an effort to improve the workflow.

Reviews of copyright deposits stored at the Landover Deposit Copy Storage Unit continued. Many deposits were transferred to the collections of the Library of Congress while others have been placed under retention schedules and will ultimately be transferred to the Washington National Records Center. Investigations of methods for storing applications electronically continued during the year.

### **Cataloging Division**

The Cataloging Division, which is responsible for creating online records of all copyright registrations, cataloged 532,758 registrations and document recordings during the year, an increase of 44,646 over fiscal 1984.

Staff in the Documents Pilot Project, which was established last year, in cooperation with the Cataloging Division, Examining Division, and Administrative Office, developed product-line procedures for recordation of documents within the Copyright Office. The pilot project was converted into a permanent Documents Unit within the Cataloging Division.

The division employed technology to solve a number of internal communication problems. The Technical Support Section supervised installation of a public address system covering the entire division, and E-Mail was introduced into all of the computer terminals. Work continued on the development of enhancements to the serials subsystem of the Copyright Office Publication and Interactive Cataloging System (COPICS) that will ultimately lead to full serial retrieval capability. The Rules Review Group finished work on the style and format sections

of the cataloging rules, moving closer to standardization within the division.

### **Licensing Division**

During 1985 deregulatory action by the Federal Communications Commission and a rate increase imposed by the Copyright Royalty Tribunal added to the complexity of administering the cable copyright compulsory license. In response to the additional rate structures and requirements imposed on cable systems by the tribunal, the Licensing Division, in conjunction with the Office of the General Counsel, revised the Cable Statement of Account. During the year the tribunal made two separate distributions of jukebox royalty fees totaling \$3 million and six separate distributions of cable royalty fees totaling \$45 million. The Licensing Division collects and invests these funds until the time of distribution is set. In fiscal 1985 the division handled a record total of \$96 million in royalties and managed more than \$200 million in multiple investment accounts covering various accounting periods for both jukebox and cable royalty fees.

Negotiations between the owners of jukeboxes represented by the Amusement and Music Operators Association (AMOA) and the music performing rights organizations led to an agreement that will help jukebox owners comply with the Copyright Act. As part of this agreement, the performing rights societies agreed to establish a system by which jukebox owners who complied with the act by licensing their jukeboxes would be entitled to a rebate of the royalties paid.

## **COPYRIGHT OFFICE REGULATIONS**

### **Deposit Regulations**

Under section 407 of the Copyright Act, the owner of copyright or the owner of the exclusive right of publication in a work published with notice of copyright in the United States is required to deposit copies or phonorecords of the

work in the Copyright Office for the use or disposition of the Library of Congress. Section 408 of the act also requires the deposit of copies, phonorecords, or identifying material in connection with applications for copyright registration. On February 14, 1985, the Copyright Office published proposed amendments to the deposit regulations. Public comments on the proposed amendments were analyzed and, as the fiscal year came to a close, final regulations had been drafted and were being prepared for issuance.

### **Cable Television**

Section 111 of the Copyright Act prescribes conditions under which cable systems may obtain a compulsory license to retransmit copyrighted works by filing Notices of Identity and Signal Carriage Complement as well as Statements of Account and submitting statutory royalty fees. On March 7, 1985, the office published final regulations to modify the filing requirements and royalty fee calculations necessitated by changes in rules and regulations of the Federal Communications Commission effective June 25, 1981, which removed cable television distant signal limitations and syndicated program exclusivity rules from the FCC regulations. These regulations made final, without modification, interim rules that were published by the Copyright Office on May 20, 1982.

### **Information**

The Copyright Office issued a final regulation, effective July 24, 1985, regarding office organization and procedures in providing information. The regulation explains the general information that can be obtained from the Copyright Office and prescribes the conditions under which records, correspondence, and deposit material may be inspected and copied. It also gives the addresses to which various kinds of requests to the office should be directed.

On August 14, 1985, regulations were amended to change the frequency of reporting

Copyright Office systems of record, reflecting changes in the Privacy Act regarding such reports. The act, which had previously required an agency to report at least annually, was amended to require a report only upon the establishment or revision of a system of records.

### **Cancellation of Registrations**

On August 16, 1985, the Copyright Office published a proposed regulation governing cancellation of completed registrations. The effect of the regulation is to state that the Copyright Office will cancel a completed registration that was made in error or that was made in the wrong classification and to specify the conditions under which cancellation may occur. The regulation, which was issued to inform the public more explicitly of cancellation practices gives the copyright claimant thirty days to present arguments against cancellation when the proposed action is based on substantive grounds. It is anticipated the regulation will be issued in final form early in fiscal 1986.

### **Public Announcements**

On October 10, 1984, the Copyright Office announced that the fee for special handling of applications for registration of claims to copyright was being increased to \$200, effective November 9, 1984. The fee was established by a provision in the Copyright Act that authorizes the Register of Copyrights to fix a fee for any special services requiring a substantial amount of time or expense.

After holding a public hearing in October, the Copyright Office published a notice on November 28 covering the policy decision that had been made regarding the status of low-power television stations under the definition of "local service area of a primary transmitter" found in section 111(f) of the Copyright Act. This definition establishes the demarcation between so-called "local" and "distant" signals under the cable compulsory license. The office concluded

that the status of low power television stations under the compulsory license is ambiguous and consequently decided to take a neutral position on the issue. It was announced that the Copyright Office would not question the determination by a cable system that a low-power station's signal is "local" within an area approximating the normal coverage zone of such station.

On November 28, 1984, the Copyright Office announced that it had established a new system of records to facilitate access by members of the public to Copyright Office correspondence relating to the cable compulsory licensing system. The system contains correspondence of the Licensing Division, the Register of Copyrights, and other Copyright Office officials with members of the public concerning administration of the licensing system.

On February 14, 1985, the office announced the availability of a new *Compendium of Copyright Office Practices*. The manual reflects examining and related practices under the Copyright Act of 1976.

### Notices of Inquiry

On January 17, 1985, the Federal Communications Commission published a final rule amending the list of major television markets. On April 15, 1985, the Copyright Office published a notice of inquiry to review the copyright implications of the FCC rules amendment. A cable system looks to the FCC list of major television markets to determine whether it may be required under the remaining FCC carriage rules to carry a particular television broadcast station, with implications for the amount of royalties it may have to pay under the compulsory license provisions of section 111 of the Copyright Act. On July 19, 1985, the Court of Appeals for the District of Columbia held in *Quincy Cable TV, Inc. v. F.C.C.*, No. 83-2050, slip. op. (D.C. Cir. July 19, 1985) that in their current form the FCC's mandatory carriage rules contravene the First Amendment. If the Quincy decision stands and the FCC does not attempt to redraft its regulations, there is a strong possibility that in the near

future the FCC will cease making determinations concerning the redesignation of the major television market list. In such event, the issue raised in this inquiry, that is, whether a change in the FCC's major television market list is a rule change for purposes of determining copyright royalties, is moot. Early next fiscal year the office intends to publish its policy decision concerning the significance for copyright purposes of the FCC's action amending the list of major television markets.

Databases present special problems for deposit and examination because they are constantly changing and there is some question about the copyrightability of additional small increments of information. In this connection, the office published a notice of inquiry on June 10, 1985, soliciting public comment on a number of possible deposit alternatives, the deposit requirements for machine-readable databases including revisions, and the use of the special relief provisions to ease the registration requirements for databases.

### Legislative Developments

The fiscal year saw substantial legislative activity in the copyright field, reflecting the impact of rapid technological changes. The Acting Register of Copyrights, Donald C. Curran, testified before congressional committees on several occasions during the fiscal year. In April he appeared at a hearing held by the Senate Subcommittee on Patents, Copyrights, and Trademarks inquiring into the adequacy of the criminal penalties provided for in the Copyright Act of 1976. In May, at the copyright oversight hearing conducted by the House Subcommittee on Courts, Civil Liberties, and the Administration of Justice, Mr. Curran highlighted the achievements of the office during 1984 and touched briefly on some of the problems. That same month Mr. Curran appeared for the Copyright Office before the Senate Subcommittee on Patents, Copyrights, and Trademarks in a hearing to discuss various aspects of the Berne Convention and possible United States adherence to it.

Two bills were introduced in the House of Representatives concerning home video and audio taping. On January 3, 1985, Rep. Stan Parris introduced H.R. 384, which would exempt video recording for private noncommercial use from copyright infringement provisions. Home audio taping was the subject of H.R. 2911, introduced June 27, 1985, by Representative Bruce Morrison. The bill exempts home taping for private use from copyright liability. Under the bill, manufacturers and importers of blank audio tape and audio recording equipment would pay a reasonable royalty fee to compensate copyright owners, based on a percentage of the price charged for the first domestic sale of the tapes or devices. No action has been taken on these measures.

Two bills relating to home viewing of satellite-transmitted television programming were introduced and referred to the Committee on Energy and Commerce. H.R. 1769, introduced by Rep. Judd Gregg on March 27, 1985, would amend section 705 of the Communications Act of 1934 to provide a two-year moratorium on the encryption of satellite cable programming. The moratorium would allow development of a marketing system that would permit private viewing of such programming by home satellite earth station owners. H.R. 1840, introduced by Rep. W. J. Tauzin on March 28, 1985, would amend the Communications Act of 1934 to provide a compulsory license that would ensure home satellite earth station owners reception of encrypted satellite programming decoded for private viewing.

In the wake of the Supreme Court's decision in *Mills Music, Inc. v. Snyder*, 105 S.Ct. 638 (1985), two bills were introduced to clarify the operation of the "derivative works exception" to the "termination of transfers and licenses" provisions of the Copyright Act of 1976. On June 27, 1985, Sen. Arlen Specter introduced S. 1384, which would amend section 304(c)(6) to make it clear that any royalties from the utilization of derivative works after termination of the grant will revert to the person exercising the termination grant. On August 1, 1985, Rep. Howard Berman introduced H.R. 3163, which

amends the termination provisions of both section 203 and section 304.

Two bills that would alter the Copyright Royalty Tribunal were introduced during the fiscal year. H. R. 2752, introduced by Rep. Mike Synar on June 12, 1985, would terminate the tribunal and transfer its functions to the Office of the Register of Copyrights. Rep. Robert Kastenmeier's bill, H.R. 2784, would likewise abolish the tribunal and replace it with a Copyright Royalty Court. The Subcommittee on Courts, Civil Liberties, and the Administration of Justice held hearings during the year to consider these bills as well as other possible reforms of the tribunal. The Acting Register of Copyrights presented various alternatives for the reform of the agency at a hearing before the subcommittee on June 19, 1985.

The cable television compulsory license provisions continued to be the target of a number of legislative proposals. H.R. 3339, introduced by Rep. Barney Frank on September 18, 1985, would amend section 111 of the Copyright Act to eliminate the cable compulsory license for retransmission of distant signals. The bill creates an exemption from copyright liability for retransmissions made by small cable systems (those that serve fewer than 2,500 subscribers and those carrying local signals that have a capacity of twelve or fewer channels) and for local retransmissions made by cable systems that carry, as part of their basic tier of cable service that is regularly provided to all subscribers at the minimum charge, the unaltered signals of every local broadcast television station. S. 584, introduced March 5, 1985, by Sen. Paul Trible, would require the FCC to maintain and enforce must-carry rules in effect on October 1, 1983. H.R. 1837, introduced by Rep. Robin Tallon on March 28, 1985, would eliminate any requirement for carrying certain out-of-state broadcast signals by any cable system under the must-carry rules of the FCC. Companion bills S. 1526 and H.R. 3108 were introduced on July 30, 1985, by Sen. Charles McC. Mathias and Rep. Robert Kastenmeier, respectively, to clarify the definition, in section 111(f) of the Copyright Act, of the local service area of a primary transmitter in

the case of a low power television station. No action was taken on any of these measures.

Sen. Charles McC. Mathias introduced S. 658 on March 14, 1985, to establish a commission to study and make recommendations on the desirability and feasibility of amending the copyright laws to compensate authors for the not-for-profit lending of their works by public libraries. Senator Mathias had introduced a similar measure in the preceding Congress.

In other legislative activities, the Design Protection Bill was reintroduced on April 2, 1985, as H.R. 1900 by Rep. Carlos Moorhead. The bill would provide protection in the copyright law for ornamental designs of useful articles.

S. 3074, entitled the Computer Software Protection Act of 1984, was introduced by Sen. Charles McC. Mathias on October 5, 1984. The purpose of the bill is to protect copyrighted computer programs from unauthorized copying by making it illegal for the owner of a particular copy of a computer program, for purposes of commercial advantage, to dispose of, or authorize the disposal of, the possession of the copy by rental, lease, or lending. Rep. Barney Frank introduced H.R. 3465 on October 1, 1985, to remove the July 1, 1986, expiration date for the manufacturing requirements from section 601 of the Copyright Act. The effect of the legislation would be to make permanent the requirements of the manufacturing clause. Two bills, H.R. 3124 and H.R. 3146, were introduced by Rep. Edward Zschau and Rep. Fortney Stark, respectively, to amend the Internal Revenue Code of 1954 with respect to the treatment of computer software royalties under the personal holding company provisions.

S. 1264, a bill to amend the National Foundation on the Arts and Humanities Act of 1965, introduced by Sen. Dan Quayle on June 7, 1985, would require the Comptroller General of the United States to study the feasibility of supplementing expenditures made from the general fund of the Treasury for the National Endowment for the Arts, the National Endowment for the Humanities, and the Institute of Museum Services with payments made to the government through an extension of the copyright term for

artistic, dramatic, literary, and musical works and a fund made up of payments to the government for the right to use or publicly perform artistic, dramatic, literary, and musical works in the public domain. In carrying out the study, the Comptroller General will consult the Register of Copyrights on a regular basis. The bill was reported out of committee on August 1, 1985.

### Reporting to Congress

"During the last two decades the copyright industries in size passed farming, automobile manufacturing, and electrical machinery manufacturing, and now rank second behind only the medical/health industry," the Copyright Office declared in its report to Congress in December 1984 on the growing importance and size of the copyright-related industries. The report had been requested by Sen. Charles McC. Mathias, Chairman of the Senate Subcommittee on Patents, Copyrights, and Trademarks to assist in considering the impact of changes in copyright legislation.

After examining the report Senator Mathias commented that it would be useful to Congress in its continuing efforts to adapt our copyright laws to the Information Age and its new technologies.

## JUDICIAL DEVELOPMENTS

### U.S. Supreme Court

In *Mills Music, Inc. v. Snyder*, 105 S.Ct. 638 (1985) the U.S. Supreme Court concluded that a music publisher had the right to continue to receive royalties from derivative sound recordings it licensed before the termination of its ownership of a musical work. The controversy arose out of a statutory exception to the termination right providing that a "derivative work prepared under authority of the grant before termination may continue to be utilized under the terms of the grant after its termination." Under the newly acquired right, an author's heirs had acted to acquire ownership of the song "Who's

Sorry Now," effectively terminating the music publisher's previous ownership.

In *United States v. Dowling*, 105 S.Ct. 3127 (1985), the issue was whether interstate transportation of bootleg recordings violated the National Stolen Property Act. A distributor was convicted of criminal copyright infringement and interstate transport of bootleg recordings of the works of Elvis Presley and subsequently appealed the copyright conviction. In reversing the appellate court that had affirmed the conviction, the Supreme Court noted the absence of identity between the actual property transported and that said to be stolen. The Court commented that copyrights are not chattels but a bundle of rights, and should not be considered the same as goods, wares, or merchandise.

Following the landmark *Betamax* decision of last term, the Supreme Court had another occasion to apply the fair use doctrine this term. In *Harper & Row v. The Nation Enterprises*, 105 S.Ct. 2218 (1985), *The Nation* sought to have its prepublication scoop of portions of the memoirs of former President Gerald Ford, *A Time To Heal*, protected by fair use. Although the Supreme Court agreed with the Second Circuit of Appeals that copyright should increase and not impede the spread of knowledge, it said that the Second Circuit gave insufficient deference to the scheme established by the Copyright Act for accomplishing that purpose. The Court further held that in "using generous verbatim excerpts of Mr. Ford's unpublished manuscript . . . *The Nation* effectively arrogated to itself the right of first publication" and concluded that defendant's use was not a fair use within the meaning of the Copyright Act.

### Copyright Office Litigation

In an unusual action, the Copyright Office's authority to cancel completed registrations of claims to copyright was challenged, in *Kiddie Rides U.S.A., Inc. v. Curran*, Civ. No. 85-1368 (D.D.C. filed April 26, 1985). Under longstanding Copyright Office practices, the office canceled the registrations for six works on the

ground that they were useful articles without separable copyrightable features. Plaintiff brought this action to ask the court to order the registrations reinstated, arguing that the Register had no legal authority to cancel a completed registration and complaining of violations of its due process rights. After reconsideration, the Copyright Office decided to reinstate the registrations for the purpose of giving the plaintiff the opportunity to show cause why the claims should not be canceled. The case against the Register was then dismissed for mootness, but a motion for attorneys' fees is still pending. In another pending case, *Jon Woods Fashions, Inc. v. Curran*, Civ. No. 85-3203 (S.D.N.Y. filed April 25, 1985), plaintiff challenged the refusal of the Copyright Office to register a claim to copyright in a de minimis textile fabric design. The Register's motion to dismiss the mandamus action or, in the alternative, for summary judgment was filed in August.

*Brandir International, Inc. v. Columbia Cascade Timber Co.*, Civ. No. 84-1411 (S.D.N.Y. filed Feb. 28, 1984), an infringement action brought in the Southern District of New York, involves a bicycle rack that had been submitted for registration as a work described as "ribbon sculpture." The office had refused registration based on the absence of separable artistic features apart from the shape of the bicycle rack. After being served with a copy of the complaint in accordance with section 411(a) of title 17, the office intervened as a party defendant. Following the court's denial of its motion for change of venue, the defendant filed a motion to dismiss on which oral argument was heard in August. There had been no ruling on that motion by the end of the fiscal year.

Two additional cases that the Copyright Office had previously entered under 17 U.S.C. 411(a) were concluded this fiscal year. In *Duffey-Moses v. Sunwest Productions*, CV No. 83-5365 ER (C.D. Cal. filed Aug. 18, 1983), the Copyright Office intervened to explain why it refused to register a logo for a periodical entitled ON-TV on the ground that it lacked sufficient authority to support a copyright. The district court granted the office's motion for summary judg-

ment in a bench ruling on May 17, 1985. In *John Muller & Co., Inc. v. David A. Schoenstadt, M.D.&1., No. 84-0402-CV-W-6* (W.D. Mo. Dec. 22, 1984), the office had refused to register the logo of the New York Arrows Soccer team because of insufficient copyrightable authorship. The court granted the Copyright Office's motion for summary judgment.

The Copyright Office is still involved in three cases challenging the validity of its regulations on the secondary transmission of primary broadcasts by cable systems. In *National Cable Television Association, Inc. v. Columbia Pictures Industries, Inc., Civ. No. 83-2785* (D.D.C. filed Sept. 21, 1983), the Register was joined as a defendant because the Copyright Office regulations pertaining to gross receipts directly address the issue of "tiering" in the case. The government filed a motion for summary judgment last year. In *Cablevision Systems Development Co. v. Motion Picture Association of America, Inc., Civ. No. 83-1655* (D.D.C. filed June 17, 1983), a case parallel to the above NCTA action, plaintiff seeks to establish that section 111 of the Copyright Act requires payment of royalties based only on revenues received from its "basic service" tier, to which all its customers must necessarily subscribe in order to receive any cable service. *Cox Cable Tucson, Inc. v. Ladd, Civ. No. 84-534* (D. Ariz. filed July 13, 1984) involved the question of the rate a cable system must pay for a distant signal that it substitutes for a distant signal that had been carried as a "grandfathered signal," that is, a distant signal that a cable system was authorized to carry over its market quota under FCC rules. After hearing oral argument on the parties' cross motions for summary judgment, the court issued a one-page order deferring to the interpretation of the Copyright Office and upholding the regulation. The plaintiff has filed a notice of appeal.

### Constitutional Questions

The court rendered its decision during the year in *The Authors League of America, Inc. v. Ladd, 82 Civ. 5731* (S.D.N.Y. October 9, 1985),

upholding the constitutionality of the manufacturing requirements of the 1976 Copyright Act. When the Copyright Office refused the request of Irwin Karp, counsel to the Authors League of America, to issue an import statement for 6,000 copies of a pamphlet he had had printed in England, the plaintiffs sought to challenge the constitutionality of the manufacturing clause. In *Ladd v. Law & Technology Press, 762 F.2d 809* (9th Cir. 1985), a publisher unsuccessfully challenged the constitutionality of the deposit requirements of the 1976 Copyright Act. The action was brought by the Register of Copyrights after the defendant had refused to deposit two copies of its published periodical as required by section 407 of the Copyright Act. Law & Technology Press complained that the deposit requirements were an unconstitutional burden under the First Amendment and an unconstitutional taking of property under the Fifth Amendment. In affirming the lower court, the Court of Appeals for the Ninth Circuit concluded that the deposit requirements did not violate the defendant's constitutional rights. The court observed that the publisher availed itself of copyright protection by choosing to publish its periodical with notice of copyright and therefore must accept the condition of deposit.

*Mihalek Corporation v. Michigan, 595 F.Supp. 903* (E.D. Mich. 1984) was a suit to recover money damages against officials of the state of Michigan for the alleged appropriation of designs for an advertising campaign. The district court held that the sovereign immunity defense barred such relief. In holding that defendant's actions were protected by the Eleventh Amendment, the court expressly disapproved of *Mills Music v. Arizona, 591 F.2d 1278* (9th Cir. 1979), which held that Congress abrogated the states' Eleventh Amendment immunities when it enacted the copyright statute. The court said that copyright owners are no more deserving than the aged, blind, or disabled, whose statutory rights have also been denied in cases holding that the Eleventh Amendment prevents recovery against state officers.

In *United Christian Scientists v. Christian Science Board of Directors of the First Church*

of *Christ, Scientist*, Copr. L. Rep. (CCH) 25,830 (D.D.C. Aug. 15, 1985), the district court held unconstitutional a private copyright law enacted by Congress in 1971 that both restored copyright protection to certain works by Mary Baker Eddy that had fallen into the public domain and extended the copyright term for certain of Mrs. Eddy's works beyond that given to other works by the Copyright Act of 1909. Plaintiffs are members of an "unincorporated association of religionists" who challenged the Mother Church's right exclusively to control the work entitled *Science and Health, with Key to the Scriptures* by means of the private law. The original defendant, the Register of Copyrights, was dismissed in an earlier action and the Mother Church was added as the real party in interest. The court stated that the mandate in the Establishment Clause that "Congress shall make no law respecting an establishment of religion" means that there must be a "wall of separation" between church and state. The private law was held to be a governmental action that bestowed a benefit on a particular denomination or sect, thus penetrating that wall.

While not having an immediate and direct impact on present Copyright Office operations, *Quincy Cable TV, Inc. v. FCC*, No. 83-2050 (D.C. Cir. July 19, 1985) is of high interest to the office because it has possible future implications for the cable compulsory license. In the Quincy case, the FCC's rules requiring cable television operators to carry local systems were struck down as an unconstitutional First Amendment restraint. Quincy Cable had sought relief from the obligation to carry certain local stations. The FCC had denied that relief. The court concluded that the must-carry rules exceeded the permissible burden on speech. Pointing out that cable television warrants a different standard of First Amendment review from that applied to broadcasters, the court stated that the FCC failed to take into account the peculiarities of the cable medium of expression in determining the effect of requiring cable to carry most local stations. Moreover, the court related that the FCC has never provided empirical data that establish its assumption that cable poses a real threat to the

economic health of local broadcast television. Concluding that the must-carry rules, as drafted, could not meet the more than incidental burden on speech occasioned by favoring one class of speakers over others, the court vacated the rules.

### Subject Matter of Copyright

In *Poe v. Missing Persons*, 745 F.2d 1238 (9th Cir. 1984), the Court of Appeals for the Ninth Circuit decided that whether a work worn by a model in a photograph was a swimsuit or a work of art constituted a question of fact that could not be decided on a motion for summary judgment and remanded the case to the district court for a trial on the merits. The work, entitled *Aquatint No. 5*, consisted of four pieces of cut plastic attached to several long plastic tubes. The Copyright Office had previously refused to register a claim to copyright in *Aquatint No. 5*. *Carol Barnhart Inc. v. Economy Cover Corp.*, Docket No. 84-7867 (2d Cir. September 12, 1985) held that mannequins of human torsos are not copyrightable because as useful articles they contain no separable sculptural or artistic features. The appellate court noted that Congress has consistently denied protection to useful articles that have no separately identifiable aesthetic or artistic features, regardless of whether they are artistically satisfying or valuable. In *Sherry Manufacturing Co., Inc. v. Towel King of Florida, Inc.*, 753 F.2d 1565 (11th Cir. 1985), the court considered the question of how much new material a derivative work must possess to make it copyrightable. In the district court, defendant complained that the work was not copyrightable and that plaintiff failed to disclose the derivative nature of the work in its copyright application. In awarding judgment to the plaintiff, the court ruled that the omission of this information was not intentional. The Court of Appeals for the Eleventh Circuit reversed, ruling that plaintiff's changes were too trivial to be copyrightable.

In *Hutchinson Telephone Co. v. Fronteer Directory Co. of Minnesota, Inc.*, Copr. L. Rep. (CCH) 25,827 (8th Cir. August 13, 1985), the



court reversed a case holding that a white pages telephone directory was not copyrightable because publication of the directory was a state requirement. The court found that nothing in the copyright law excludes copyright protection for regulated business organizations with respect to directories that the law requires them to produce. In *Financial Information Inc. v. Moody's Investors Service, Inc.*, 751 F.2d 501 (2d Cir. 1984), the plaintiff, a publisher of bond information, furnished a reporting service consisting of pertinent data on bonds about to be redeemed. When a significant number of plaintiff's errors, including its "ringers," appeared in another financial reporting service, plaintiff brought suit for copyright infringement. The lower court held that the copying was minimal and permitted by fair use because the scope of permissible fair use was larger for "fact works" than for "truly creative works." The Court of Appeals for the Second Circuit agreed that facts are not copyrightable but observed that compilations of facts have been traditionally protected by copyright. Noting the two lines of authority in compilation—those that make copyrightability turn on the labor or effort expended in assembling the data and those that look exclusively to arrangement, selection, and coordination—the Second Circuit agreed with the latter line of cases. The appellate court then remanded the case to the district court for determinations on whether the daily called bond data was copyrightable and whether the annual bound volume of called bonds "served a real or trivial purpose." In *Rockford Map Publishers, Inc. v. Directory Service Co. of Colorado, Inc.*, Copr. L. Rep. (CCH) 25,817 (7th Cir. July 15, 1985), the plaintiff, a maker of county plat maps, complained that the defendant was using its maps as templates to prepare maps defendant distributes to the public. The district court found for the plaintiff. On appeal, defendant challenged the copyrightability of the maps on the ground that plaintiffs had not contributed enough effort to the map, having spent only a few hours on the version in question. In affirming the district court, the Court of Appeals for the Seventh Circuit stated that ". . . the input of time is irrelevant. A photograph may be copy-

righted, although it is the work of an instant and its significance may be accidental."

### Formalities

In *Wales Industrial Inc. v. Hasbro Bradley, Inc.*, Copr. L. Rep. (CCH) 25,814 (S.D.N.Y. July 3, 1985), the court refused to hold in a declaratory judgment action that Hasbro's claims to copyright in its Transformer toys were invalid. Wales charged that some of the Transformers were in the public domain because they had been published without copyright notice or with inadequate notices. With respect to the notices on two Transformers that were visible only when the works were in their robot configuration, and not when the works were in their dinosaur configuration, the court held that the statutory requirement for a reasonable notice under the 1976 act was fully satisfied since the notices were permanently affixed to an integral part of the toys and became visible when the toys were manipulated in the manner intended. Wales also contended that some toys were in the public domain because they were sold abroad without copyright notice.

However, the court held that for works first published after January 1, 1978, the omission could be cured by the exclusive U.S. licensee's "placing notices on all copies distributed under its own authority in this country and elsewhere and by registering the works with the Copyright Office within five years after their initial publication by the foreign author."

In *Shapiro & Son Bedspread Corp. v. Royal Mills Associates*, 764 F.2d 69 (2d Cir. 1985), the Court of Appeals for the Second Circuit reversed the district court's ruling that plaintiff's effort to add notice to its bedspreads was unreasonable as a matter of law. Although plaintiff registered its work within five years of first publication, plaintiff had distributed approximately 500,000 bedspreads containing defective notices. Distinguishing this case from *Beacon Looms, Inc. v. S. Lichtenberg & Co., Inc.*, 552 F.Supp. 1305 (S.D.N.Y. 1982), the court noted that plaintiff did not deliberately omit the notice but added it to the bedspreads in its own inventory. In *Can-*

*field v. Ponchatoula Times*, 759 F.2d 493 (5th Cir. 1985), the trial court held and the Court of Appeals for the Fifth Circuit affirmed that copyright in an advertisement was forfeited when it was published without a separate notice of copyright. The court held that the general notice on the collective work as a whole was insufficient to give notice of the copyright claim in the advertisement, even where the copyright owner in the collective work and the newspaper advertisement are the same, if the advertisement is inserted "on behalf of someone other than the copyright owner of the collective work." In *Granse v. Brown*, Civil File No. 3-80-338 (D. Minn. July 1, 1985), a portrait photographer sought to show systematic copyright infringement by defendant. Plaintiff's normal business practice was to make high-quality photographs and either sell the first copy to the customer at a loss or to give the customer the first copy, hoping to sell others at full price. The court found the defendant was reproducing plaintiff's works and had infringed the copyright in a number of cases. However, the court refused to allow plaintiff damages for all photographs copied because of the manner in which plaintiff had registered his works. The court found the act of giving the customer a free copy or selling a photograph to a paying customer constituted publication of the photograph. Most of these works, however, had been registered as parts of unpublished collections, and the court refused to grant relief for those photographs so registered. It further disallowed relief for other works that plaintiff could not show were deposited with the Copyright Office.

### **International Developments**

Late in 1984 the President, upon the advice of the Departments of Commerce, Justice, and State and the Copyright Office, sent the Brussels Satellite Convention to the Senate for ratification. The Senate ratified the convention on October 12, 1984. Developed in Brussels in 1974 and now including nine member states, the convention obligates contracting states to take adequate measures to prevent unauthorized distribution of programming carried by satellite on or from

their territories. The convention exempts signals that are intended for direct reception from satellite by the general public; these broadcast satellite signals are generally already regulated under the copyright or neighboring rights regimes of most states. The convention should serve both as a model to other nations that look to the United States for guidance in resolving questions raised by new technologies and as a benchmark of fairness from which the United States can seek similar treatment in the markets of our trading partners.

The 98th Congress enacted the Trade and Tariff Act of 1984, P.L. 98-573, signed into law on October 30, 1984, requiring United States trading partners to protect United States intellectual property rights. The act makes a country's treatment of intellectual property a mandatory criterion for Generalized System of Preferences benefits.

In the 99th Congress several bills affecting international copyright issues were introduced but not further acted upon. On January 31, 1985, Sen. Frank Lautenberg introduced S. 339, which provides that where a foreign nation denies or limits the term of copyright protection of computer software, the United States shall reciprocally deny or limit protection of software first published in that nation or by one of its nationals. Senator Lautenberg also introduced S. 1647, a bill to amend the Tariff Act of 1930 to enhance the protection of intellectual property rights by empowering the International Trade Commission to exclude certain imported goods where the article infringes a copyright. Companion bills were introduced by Sen. Robert Dole and Rep. Sam Gibbons, respectively, to implement the Nairobi Protocol of the Florence Agreement on the Importation of Educational, Scientific, and Cultural Materials.

Since the establishment of the Berne Convention for the Protection of Literary and Artistic Works in 1886, there has been periodic consideration of whether the United States would join that convention. In the spring of 1985 the Copyright Office began developing a study of the advantages and disadvantages of adherence to the Berne Convention, and in May, Acting Register Curran presented the views of the Copyright

Office to the Senate Subcommittee on Patents, Copyrights, and Trademarks. Mr. Curran said the Copyright Office supported joining Berne if the perceived benefits of joining led to a "public and political consensus about the necessary changes in our law to make it consistent with the minimum obligations of Berne," and if the "deposit, registration, and recordation provisions . . . will be maintained substantially unchanged." Also testifying at the hearing was Dr. Arpad Bogsch, Director of the World Intellectual Property Organization, which administers the Berne Convention.

In June 1985 the Secretary of Commerce issued orders permitting Japan, the United Kingdom, Australia, the Netherlands, and Canada to register mask works of semiconductor chips with the Copyright Office. Such orders may be issued under section 914 of the Semiconductor Chip Protection Act. In July the Patent and Trademark Office conducted a hearing on the question of whether the Secretary of Commerce should issue an interim order to members of the European Economic Community.

In November 1984 Register of Copyrights David Ladd attended and delivered the keynote address at the 34th Annual Meeting of the International Confederation of Societies of Authors and Composers (CISAC) in Tokyo. While there he was invited as a guest of the Ministry of Culture of Japan to consult with various governmental leaders on the recently passed semiconductor legislation. Mr. Ladd also spent four days in Beijing where further discussions were held regarding the office's providing copyright training for several Chinese during 1985.

Copyright Office policy planning adviser Marybeth Peters represented the United States at the World Intellectual Property Organization's (WIPO) Permanent Program for Development Cooperation conference, held in Geneva February 4-8. The purpose of the Permanent Program is to assist lesser developed nations in finding effective methods for administering their copyright laws.

Ms. Peters also attended the Ad Hoc Meeting of Experts on Copyright Protection for Databases, held under the auspices of the Organization for

Economic Cooperation and Development in Paris on February 8. Representatives to the meeting discussed ways of sharing information from various countries on whether or not a database is protected and the extent of protection.

In December Copyright Office policy planning adviser Chris Meyer visited Taiwan and Korea to consult on copyright bills pending in those countries. Also involved in the consultations were representatives from the Departments of Commerce and State and the U.S. trade representative. During January and February he participated in a series of seminars in Malaysia, Thailand, and Indonesia under the auspices of the Association of Southeast Asian Nations. Topics covered included computer software, international copyright, the economics of copyright, and current copyright issues in the United States. The series was a joint initiative of the Copyright Office and the Department of Commerce.

Copyright Office staff also participated in UNESCO and WIPO meetings on private copying, video and audio rental, and computer software. In February the office was represented at WIPO and UNESCO's first meeting to consider copyright protection for computer software.

In July 1985 general counsel Dorothy Schrader traveled to Bangkok, Thailand, to testify in a copyright piracy case. Ms. Schrader explained how videocassettes obtain copyright protection in Thailand and how the U. S. registration system provides proof of ownership.

In August Lewis Flacks, policy planning adviser, served as a member of a U.S. delegation that met with officials of the government of Singapore to discuss a draft revision of the country's outdated copyright law, last amended in 1967. The delegation also included representatives from the Office of the U.S. Trade Representative and the Patents and Trademark Office. The problem of the piracy of music, books, and video recordings in Singapore was also discussed during the meetings.

Respectfully submitted,

RALPH OMAN  
*Register of Copyrights*

*International Copyright Relations of the United States as of September 30, 1985*

This table sets forth U.S. copyright relations of current interest with the other independent nations of the world. Each entry gives country name (and alternate name) and a statement of copyright relations. The following code is used:

- Bilateral**      Bilateral copyright relations with the United States by virtue of a proclamation or treaty, as of the date given. Where there is more than one proclamation or treaty, only the date of the first one is given.
- BAC**            Party to the Buenos Aires Convention of 1910, as of the date given. U.S. ratification deposited with the government of Argentina, May 1, 1911; proclaimed by the President of the United States, July 13, 1914.
- UCC Geneva**    Party to the Universal Copyright Convention, Geneva, 1952, as of the date given. The effective date for the United States was September 16, 1955.
- UCC Paris**      Party to the Universal Copyright Convention as revised at Paris, 1971, as of the date given. The effective date for the United States was July 10, 1974.
- Phonogram**    Party to the Convention for the Protection of Producers of Phonograms against Unauthorized Duplication of Their Phonograms, Geneva, 1971, as of the date given. The effective date for the United States was March 10, 1974.
- SAT**            Party to the Convention Relating to the Distribution of Programme-Carrying Signals Transmitted by Satellite, Brussels, 1974, as of the date given. The effective date for the United States was March 7, 1985.
- 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.

<b>Afghanistan</b>	UCC Geneva May 1, 1969	<b>Belau</b>
None	Phonogram June 22, 1974	Unclear
<b>Albania</b>	UCC Paris Feb. 28, 1978	<b>Belgium</b>
None	<b>Austria</b>	Bilateral July 1, 1891
<b>Algeria</b>	Bilateral Sept. 20, 1907	UCC Geneva Aug. 31, 1960
UCC Geneva Aug. 28, 1973	UCC Geneva July 2, 1957	<b>Belize</b>
UCC Paris July 10, 1974	SAT Aug. 6, 1982	UCC Geneva Sept. 21, 1981
<b>Andorra</b>	UCC Paris Aug. 14, 1982	<b>Benin</b>
UCC Geneva Sept. 16, 1955	Phonogram Aug. 21, 1982	(formerly Dahomey)
<b>Angola</b>	<b>Bahamas, The</b>	Unclear
Unclear	UCC Geneva Dec. 27, 1976	<b>Bhutan</b>
<b>Antigua and Barbuda</b>	UCC Paris Dec. 27, 1976	None
Unclear	<b>Bahrain</b>	<b>Bolivia</b>
<b>Argentina</b>	None	BAC May 15, 1914
Bilateral Aug. 23, 1934	<b>Bangladesh</b>	<b>Botswana</b>
BAC April 19, 1950	UCC Geneva Aug. 5, 1975	Unclear
UCC Geneva Feb. 13, 1958	UCC Paris Aug. 5, 1975	<b>Brazil</b>
Phonogram June 30, 1973	<b>Barbados</b>	BAC Aug. 31, 1915
<b>Australia</b>	UCC Geneva June 18, 1983	Bilateral Apr. 2, 1957
Bilateral Mar. 15, 1918	UCC Paris June 18, 1983	UCC Geneva Jan. 13, 1960
	Phonogram July 29, 1983	

Phonogram Nov. 28, 1975  
UCC Paris Dec. 11, 1975

**Brunei**  
Unclear

**Bulgaria**  
UCC Geneva June 7, 1975  
UCC Paris June 7, 1975

**Burkina Faso**  
(formerly Upper Volta)  
Unclear

**Burma**  
Unclear

**Burundi**  
Unclear

**Cambodia**  
(See entry under Kampuchea)

**Cameroon**  
UCC Geneva May 1, 1973  
UCC Paris July 10, 1974

**Canada**  
Bilateral Jan. 1, 1924  
UCC Geneva Aug. 10, 1962

**Cape Verde**  
Unclear

**Central African Republic**  
Unclear

**Chad**  
Unclear

**Chile**  
Bilateral May 25, 1896  
BAC June 14, 1955  
UCC Geneva Sept. 16, 1955  
Phonogram March 24, 1977

**China**<sup>2</sup>  
Bilateral Jan. 13, 1904

**Colombia**  
BAC Dec. 23, 1936  
UCC Geneva June 18, 1976  
UCC Paris June 18, 1976

**Comoros**  
Unclear

**Congo**  
Unclear

**Costa Rica**<sup>1</sup>  
Bilateral Oct. 19, 1899  
BAC Nov. 30, 1916  
UCC Geneva Sept. 16, 1955  
UCC Paris Mar. 7, 1980  
Phonogram June 17, 1982

**Cuba**  
Bilateral Nov. 17, 1903  
UCC Geneva June 18, 1957

**Cyprus**  
Unclear

**Czechoslovakia**  
Bilateral Mar. 1, 1927  
UCC Geneva Jan. 6, 1960  
UCC Paris Apr. 17, 1980  
Phonogram Jan. 15, 1985

**Denmark**  
Bilateral May 8, 1893  
UCC Geneva Feb. 9, 1962  
Phonogram Mar. 24, 1977  
UCC Paris July 11, 1979

**Djibouti**  
Unclear

**Dominica**  
Unclear

**Dominican Republic**<sup>1</sup>  
BAC Oct. 31, 1912  
UCC Geneva May 8, 1983  
UCC Paris May 8, 1983

**Ecuador**  
BAC Aug. 31, 1914  
UCC Geneva June 5, 1957  
Phonogram Sept. 14, 1974

**Egypt**<sup>3</sup>  
Phonogram Apr. 23, 1978

**El Salvador**  
Bilateral June 30, 1908, by virtue of  
Mexico City Convention, 1902  
Phonogram Feb. 9, 1979  
UCC Geneva Mar. 29, 1979  
UCC Paris Mar. 29, 1979

**Equatorial Guinea**  
Unclear

**Ethiopia**  
None

**Fiji**  
UCC Geneva Oct. 10, 1970  
Phonogram Apr. 18, 1973

**Finland**  
Bilateral Jan. 1, 1929  
UCC Geneva Apr. 16, 1963  
Phonogram Apr. 18, 1973

**France**  
Bilateral July 1, 1891  
UCC Geneva Jan. 14, 1956  
Phonogram Apr. 18, 1973  
UCC Paris July 10, 1974

**Gabon**  
Unclear

**Gambia, The**  
Unclear

**Germany**  
Bilateral Apr. 15, 1892  
UCC Geneva with Federal Republic  
of Germany Sept. 16, 1955  
UCC Geneva with German Democratic  
Republic Oct. 5, 1973  
UCC Paris with Federal Republic  
of Germany July 10, 1974  
Phonogram with Federal Republic  
of Germany May 18, 1974  
SAT Aug. 25, 1979  
UCC Paris with German Democratic  
Republic Dec. 10, 1980

**Ghana**  
UCC Geneva Aug. 22, 1962

**Greece**  
Bilateral Mar. 1, 1932  
UCC Geneva Aug. 24, 1963

**Grenada**  
Unclear

**Guatemala**<sup>1</sup>  
BAC Mar. 28, 1913  
UCC Geneva Oct. 28, 1964  
Phonogram Feb. 1, 1977

**Guinea**  
UCC Geneva Nov. 13, 1981  
UCC Paris Nov. 13, 1981

**Guinea-Bissau**  
Unclear

**Guyana**  
Unclear

**Haiti**  
BAC Nov. 27, 1919  
UCC Geneva Sept. 16, 1955

**Holy See**  
(See entry under Vatican City)

**Honduras**<sup>1</sup>  
BAC Apr. 27, 1914

**Hungary**  
Bilateral Oct. 16, 1912  
UCC Geneva Jan. 23, 1971  
UCC Paris July 10, 1974  
Phonogram May 28, 1975

**Iceland**  
UCC Geneva Dec. 18, 1956

**India**  
Bilateral Aug. 15, 1947  
UCC Geneva Jan. 21, 1956  
Phonogram Feb. 12, 1975

**Indonesia**  
Unclear

**Iran**  
None

**Iraq**  
None

**Ireland**  
Bilateral Oct. 1, 1929  
UCC Geneva Jan. 20, 1959

**Israel**  
Bilateral May 15, 1948  
UCC Geneva Sept. 16, 1955  
Phonogram May 1, 1978

**Italy**  
Bilateral Oct. 31, 1892  
UCC Geneva Jan. 24, 1957  
Phonogram Mar. 24, 1977  
UCC Paris Jan. 25, 1980  
SAT July 7, 1981

**Ivory Coast**  
Unclear

**Jamaica**  
None

**Japan**<sup>4</sup>  
UCC Geneva Apr. 28, 1956  
UCC Paris Oct. 21, 1977  
Phonogram Oct. 14, 1978

**Jordan**  
Unclear

**Kampuchea**  
UCC Geneva Sept. 16, 1955

**Kenya**  
UCC Geneva Sept. 7, 1966  
UCC Paris July 10, 1974  
Phonogram Apr. 21, 1976  
SAT Aug. 25, 1979

**Kiribati**  
Unclear

**Korea**  
Unclear

**Kuwait**  
Unclear

**Laos**  
UCC Geneva Sept. 16, 1955

**Lebanon**  
UCC Geneva Oct. 17, 1959

**Lesotho**  
Unclear

**Liberia**  
UCC Geneva July 27, 1956

**Libya**  
Unclear

**Liechtenstein**  
UCC Geneva Jan. 22, 1959

**Luxembourg**  
Bilateral June 29, 1910  
UCC Geneva Oct. 15, 1955  
Phonogram Mar. 8, 1976

**Madagascar**  
(Malagasy Republic)  
Unclear

**Malawi**  
UCC Geneva Oct. 26, 1965

**Malaysia**  
Unclear

**Maldives**  
Unclear

**Mali**  
Unclear

**Malta**  
UCC Geneva Nov. 19, 1968

**Mauritania**  
Unclear

**Mauritius**  
UCC Geneva Mar. 12, 1968

**Mexico**  
Bilateral Feb. 27, 1896  
UCC Geneva May 12, 1957  
BAC Apr. 24, 1964  
Phonogram Dec. 21, 1973  
UCC Paris Oct. 31, 1975  
SAT Aug. 25, 1979

**Monaco**  
Bilateral Oct. 15, 1952  
UCC Geneva Sept. 16, 1955  
Phonogram Dec. 2, 1974  
UCC Paris Dec. 13, 1974

**Mongolia**  
None

**Morocco**  
UCC Geneva May 8, 1972  
UCC Paris Jan. 28, 1976  
SAT June 30, 1983

**Mozambique**  
Unclear

**Nauru**  
Unclear

**Nepal**  
None

**Netherlands**  
Bilateral Nov. 20, 1899  
UCC Geneva June 22, 1967

**New Zealand**  
Bilateral Dec. 1, 1916  
UCC Geneva Sept. 11, 1964  
Phonogram Aug. 13, 1976

**Nicaragua**<sup>1</sup>  
BAC Dec. 15, 1913  
UCC Geneva Aug. 16, 1961  
SAT Aug. 25, 1979

**Niger**  
Unclear

**Nigeria**  
UCC Geneva Feb. 14, 1962

**Norway**  
Bilateral July 1, 1905  
UCC Geneva Jan. 23, 1963  
UCC Paris Aug. 7, 1974  
Phonogram Aug. 1, 1978

**Oman**  
None

**Pakistan**  
UCC Geneva Sept. 16, 1955

**Panama**  
BAC Nov. 25, 1913  
UCC Geneva Oct. 17, 1962  
Phonogram June 29, 1974  
UCC Paris Sept. 3, 1980

**Papua New Guinea**  
Unclear

**Paraguay**  
BAC Sept. 20, 1917  
UCC Geneva Mar. 11, 1962  
Phonogram Feb. 13, 1979

**Peru**  
BAC Apr. 30, 1920  
UCC Geneva Oct. 16, 1963  
SAT Aug. 7, 1985  
Phonogram Aug. 24, 1985

**Philippines**  
Bilateral Oct. 21, 1948  
UCC status undetermined by  
UNESCO. (Copyright Office con-  
siders that UCC relations do not  
exist.)

**Poland**  
Bilateral Feb. 16, 1927  
UCC Geneva Mar. 9, 1977  
UCC Paris Mar. 9, 1977

**Portugal**  
Bilateral July 20, 1893  
UCC Geneva Dec. 25, 1956  
UCC Paris July 30, 1981

**Qatar**  
None

**Romania**  
Bilateral May 14, 1928

**Rwanda**  
Unclear

**Saint Christopher and Nevis**  
Unclear

**Saint Lucia**  
Unclear

**Saint Vincent and the Grenadines**  
Unclear

**San Marino**  
None

**São Tomé and Príncipe**  
Unclear

**Saudi Arabia**  
None

**Senegal**  
UCC Geneva July 9, 1974  
UCC Paris July 10, 1974

**Seychelles**  
Unclear

**Sierra Leone**  
None

**Singapore**  
Unclear

**Solomon Islands**  
Unclear

**Somalia**  
Unclear

**South Africa**  
Bilateral July 1, 1924

**Soviet Union**  
UCC Geneva May 27, 1973

**Spain**  
Bilateral July 10, 1895  
UCC Geneva Sept. 16, 1955  
UCC Paris July 10, 1974  
Phonogram Aug. 24, 1974

**Sri Lanka**  
(formerly Ceylon)  
UCC Geneva Jan. 25, 1984  
UCC Paris Jan. 25, 1984

**Sudan**  
Unclear

**Suriname**  
Unclear

**Swaziland**  
Unclear

**Sweden**  
Bilateral June 1, 1911  
UCC Geneva July 1, 1961  
Phonogram Apr. 18, 1973  
UCC Paris July 10, 1974

**Switzerland**  
Bilateral July 1, 1891  
UCC Geneva Mar. 30, 1956

**Syria**  
Unclear

**Tanzania**  
Unclear

**Thailand**  
Bilateral Sept. 1, 1921

**Togo**  
Unclear

**Tonga**  
None

**Trinidad and Tobago**  
Unclear

**Tunisia**  
UCC Geneva June 19, 1969  
UCC Paris June 10, 1975

**Turkey**  
None

**Tuvalu**  
Unclear

**Uganda**  
Unclear

**United Arab Emirates**  
None

**United Kingdom**  
Bilateral July 1, 1891  
UCC Geneva Sept. 27, 1957  
Phonogram Apr. 18, 1973  
UCC Paris July 10, 1974

**Upper Volta**  
(See entry under Burkina Faso)

**Uruguay**  
BAC Dec. 17, 1919  
Phonogram Jan. 18, 1983

<b>Vanuatu</b> Unclear	<b>Vietnam</b> Unclear	UCC Paris July 10, 1974 SAT Aug. 25, 1979
<b>Vatican City</b> (Holy See) UCC Geneva Oct. 5, 1955 Phonogram July 18, 1977 UCC Paris May 6, 1980	<b>Western Samoa</b> Unclear	<b>Zaire</b> Phonogram Nov. 29, 1977 For works other than sound recordings, unclear
<b>Venezuela</b> UCC Geneva Sept. 30, 1966 Phonogram Nov. 18, 1982	<b>Yemen (Aden)</b> Unclear	<b>Zambia</b> UCC Geneva June 1, 1965
	<b>Yemen (San'a)</b> None	<b>Zimbabwe</b> Unclear
	<b>Yugoslavia</b> UCC Geneva May 11, 1966	

<sup>1</sup> Effective June 30, 1968, this country became a party to the 1902 Mexico City Convention, to which the United States also became a party effective the same date. As regards copyright relations with the United States, this convention is considered to have been superseded by adherence of this country and the United States to the Buenos Aires Convention of 1910.

<sup>2</sup> Includes the people of Taiwan. In the absence of a domestic copyright law in the People's Republic of China, the status of works by these nationals is under study.

<sup>3</sup> For works other than sound recordings, none.

<sup>4</sup> Bilateral copyright relations between Japan and the United States, which were formulated effective May 10, 1906, are considered to have been abrogated and superseded by the adherence of Japan to the Universal Copyright Convention, Geneva, 1952, effective April 28, 1958.



## Number of Registrations by Subject Matter, Fiscal 1985

Category of material	Published	Unpublished	Total
<b>Nondramatic literary works</b>			
Monographs and machine-readable works .....	115,466	39,114	154,580
Serials .....	120,000		120,000
<b>Total .....</b>	<b>235,466</b>	<b>39,114</b>	<b>274,580</b>
<b>Works of the performing arts, including musical works, dramatic works, choreography and pantomimes, and motion pictures and filmstrips .....</b>			
	37,400	110,536	147,936
<b>Works of the visual arts, including two-dimensional works of fine and graphic art, sculptural works, technical drawings and models, photographs, cartographic works, commercial prints and labels, and works of applied art .....</b>			
	33,491	16,552	50,043
Sound recordings .....	8,422	14,321	22,743
<b>Grand total .....</b>	<b>314,779</b>	<b>180,523</b>	<b>495,302</b>
Renewals .....			43,863
<b>Total, all copyright registrations .....</b>			<b>539,165</b>
<b>Mask work registrations .....</b>			<b>916</b>

Summary of Copyright Business, Fiscal 1985

Receipts	Registrations	Fees
Copyright registrations at \$10 .....	495,302	\$4,953,020.00
Renewals at \$6 .....	43,863	263,178.00
<b>Total fees from registrations .....</b>	<b>539,165</b>	<b>5,216,198.00</b>
Fees for recording documents .....		141,013.00
Fees for certified documents .....		38,348.00
Fees for searches made .....		137,078.00
Fees for import statements .....		1,311.00
Fees for special handling .....		320,640.00
Fees for registering mask works at \$20 .....		12,260.00
<b>Total fees exclusive of copyright registrations .....</b>		<b>650,650.00</b>
<b>Total fees .....</b>		<b>5,866,848.00</b>
<b>Transfers</b>		
Fees transferred to appropriation .....		6,000,000.00
Fees transferred to miscellaneous receipts .....		170,262.00
Fees transferred for annual cost of Licensing Division .....		721,000.00
<b>Total fees transferred .....</b>		<b>6,891,262.00</b>

## Disposition of Copyright Deposits, Fiscal 1985

Category of material	Received for copyright registration and added to copyright collection	Received for copyright registration and forwarded to other departments of the Library	Acquired or deposited without copyright registration	Total
<b>Nondramatic literary works</b>				
Monographs and machine-readable works .....	118,278	94,583	10,818	223,679
Serials .....		240,904	243,923	484,827
Total .....	118,278	335,487	254,741	708,506
<b>Works of the performing arts, including musical works, dramatic works, choreography and pantomimes, and motion pictures and filmstrips .....</b>				
	104,976	18,210	121	123,307
<b>Works of the visual arts, including two-dimensional works of fine and graphic art, sculptural works, technical drawings and models, photographs, commercial prints and labels, and works of applied art .....</b>				
	43,992	658	153	44,803
Cartographic works .....	76	438	3,640	4,154
Total .....	44,068	1,096	3,793	48,957
Recordings .....	20,083	7,409	341	27,833
Total, all deposits .....	287,405	362,202	258,996	908,603

*Estimated Value of Materials Transferred to the Library of Congress*

	Items accompanying copyright registration	Items submitted for deposit only under 407	Total items transferred	Average unit price	Total value of items transferred
Books .....	80,396	10,818	91,214	\$17.20	\$1,568,881
Books, periodicals (for Exchange and Gift) .....	50,322	49,922	100,244	2.27	227,554
Periodicals .....	204,769	194,001	398,770	3.43	1,367,781
Motion Pictures .....	7,013	367	7,380	480.00	3,542,400
Music .....	11,197	121	11,318	19.00	215,042
Sound Recordings .....	7,409	341	7,750	12.60	97,650
Maps .....	438	3,640	4,078	20.20	82,376
Prints, pictures, and works of art .....	658	153	811	12.10	9,813
<b>Total .....</b>	<b>362,202</b>	<b>259,363</b>	<b>621,565</b>		<b>7,111,497</b>

*Financial Statement of Royalty Fees for Compulsory Licenses for Secondary  
Transmissions by Cable Systems for Calendar Year 1984*

Royalty fees deposited .....	\$86,461,600.54	
Interest income paid on investments .....	7,305,643.55	
		\$93,767,244.09
Less: Operating costs .....	565,099.00	
Refunds issued .....	361,107.00	
Investments purchased at cost .....	92,588,266.24	
Copyright Royalty Tribunal cost for services .....	150,000.00	
		93,662,472.24
Balance as of September 30, 1985 .....		104,771.85
Face amount of securities purchased .....		95,540,000.00
Cable royalty fees for calendar year 1984 available for distribution by the Copyright Royalty Tribunal .....		95,644,771.85

*Financial Statement of Royalty Fees for Compulsory Licenses for  
Coin-Operated Players (Jukeboxes) for Calendar Year 1985*

Royalty fees deposited .....	\$4,727,481.50	
Interest income paid on investments .....	471,259.83	
		\$5,198,741.33
Less: Operating costs .....	183,850.00	
Refunds issued .....	4,273.00	
Investments purchased at cost .....	4,962,057.57	
		5,150,180.57
Balance as of September 30, 1985 .....		48,560.76
Face amount of securities purchased .....		4,640,000.00
Estimated interest income due September 30, 1986 .....		1,020,241.25
Jukebox royalty fees for calendar year 1985 available for distribution by the Copyright Royalty Tribunal .....		5,708,802.01

REPORT OF THE REGISTER OF COPYRIGHTS, 1985

Copyright Registrations, 1790-1985

	District Courts <sup>1</sup>	Library of Congress <sup>2</sup>	Patent Office <sup>3</sup>			Total
			Labels	Prints	Total	
1790-1869	150,000					150,000
1870		5,600				5,600
1871		12,688				12,688
1872		14,164				14,164
1873		15,352				15,352
1874		16,283				16,283
1875		15,927	267		267	16,194
1876		14,882	510		510	15,392
1877		15,758	324		324	16,082
1878		15,798	492		492	16,290
1879		18,125	403		403	18,528
1880		20,686	307		307	20,993
1881		21,075	181		181	21,256
1882		22,918	223		223	23,141
1883		25,274	618		618	25,892
1884		26,893	834		834	27,727
1885		28,411	337		337	28,748
1886		31,241	397		397	31,638
1887		35,083	384		384	35,467
1888		38,225	682		682	38,907
1889		40,985	312		312	41,297
1890		42,794	304		304	43,098
1891		48,908	289		289	49,197
1892		54,735	6		6	54,741
1893		58,956		1	1	58,957
1894		62,762		2	2	62,764
1895		67,572		6	6	67,578
1896		72,470	1	11	12	72,482
1897		75,000	3	32	35	75,035
1898		75,545	71	18	89	75,634
1899		80,968	372	76	448	81,416
1900		94,798	682	93	775	95,573
1901		92,351	824	124	948	93,299
1902		92,978	750	163	913	93,891
1903		97,979	910	233	1,143	99,122
1904		103,130	1,044	257	1,301	104,431
1905		113,374	1,028	345	1,373	114,747
1906		117,704	741	354	1,095	118,799
1907		123,829	660	325	985	124,814
1908		119,742	636	279	915	120,657
1909		120,131	779	231	1,010	121,141
1910		109,074	176	59	235	109,309
1911		115,198	576	181	757	115,955
1912		120,931	625	268	893	121,824
1913		119,495	664	254	918	120,413
1914		123,154	720	339	1,059	124,213

## Copyright Registrations, 1790-1985

	District Courts <sup>1</sup>	Library of Congress <sup>2</sup>	Patent Office <sup>3</sup>			Total
			Labels	Prints	Total	
1915		115,193	762	321	1,083	116,276
1916		115,967	833	402	1,235	117,202
1917		111,438	781	342	1,123	112,561
1918		106,728	516	192	708	107,436
1919		113,003	572	196	768	113,771
1920		126,562	622	158	780	127,342
1921		135,280	1,118	367	1,485	136,765
1922		138,633	1,560	541	2,101	140,734
1923		148,946	1,549	592	2,141	151,087
1924		162,694	1,350	666	2,016	164,710
1925		165,848	1,400	615	2,015	167,863
1926		177,635	1,676	868	2,544	180,179
1927		184,000	1,782	1,074	2,856	186,856
1928		193,914	1,857	944	2,801	196,715
1929		161,959	1,774	933	2,707	164,666
1930		172,792	1,610	723	2,333	175,125
1931		164,642	1,787	678	2,465	167,107
1932		151,735	1,492	483	1,975	153,710
1933		137,424	1,458	479	1,937	139,361
1934		139,047	1,635	535	2,170	141,217
1935		142,031	1,908	500	2,408	144,439
1936		156,962	1,787	519	2,306	159,268
1937		154,424	1,955	551	2,506	156,930
1938		166,248	1,806	609	2,415	168,663
1939		173,135	1,770	545	2,315	175,450
1940		176,997	1,856	614	2,470	179,467
1941		180,647				180,647
1942		182,232				182,232
1943		160,789				160,789
1944		169,269				169,269
1945		178,848				178,848
1946		202,144				202,144
1947		230,215				230,215
1948		238,121				238,121
1949		201,190				201,190
1950		210,564				210,564
1951		200,354				200,354
1952		203,705				203,705
1953		218,506				218,506
1954		222,665				222,665
1955		224,732				224,732
1956		224,908				224,908
1957		225,807				225,807
1958		238,935				238,935
1959		241,735				241,735
1960		243,926				243,926

REPORT OF THE REGISTER OF COPYRIGHTS, 1985

Copyright Registrations, 1790-1985

	District Courts <sup>1</sup>	Library of Congress <sup>2</sup>	Patent Office <sup>3</sup>			Total
			Labels	Prints	Total	
1961		247,014				247,014
1962		254,776				254,776
1963		264,845				264,845
1964		278,987				278,987
1965		293,617				293,617
1966		286,866				286,866
1967		294,406				294,406
1968		303,451				303,451
1969		301,258				301,258
1970		316,466				316,466
1971		329,696				329,696
1972		344,574				344,574
1973		353,648				353,648
1974		372,832				372,832
1975		401,274				401,274
1976		410,969				410,969
1976 Transitional qtr. <sup>4</sup>		108,762				108,762
1977		452,702				452,702
1978		<sup>5</sup> 331,942				<sup>5</sup> 331,942
1979		429,004				429,004
1980		464,743				464,743
1981		471,178				471,178
1982		468,149				468,149
1983		488,256				488,256
1984		502,628				502,628
1985		539,165				539,165
<b>Total</b>	<b>150,000</b>	<b>20,142,683</b>	<b>55,348</b>	<b>18,098</b>	<b>73,446</b>	<b>20,366,129</b>

<sup>1</sup> Estimated registrations made in the offices of the Clerks of the District Courts (source: pamphlet entitled *Records in the Copyright Office Deposited by the United States District Courts Covering the Period 1790-1870*, by Martin A. Roberts, Chief Assistant Librarian, Library of Congress, 1939).

<sup>2</sup> Registrations made in the Library of Congress under the Librarian, calendar years 1870-1897 (source: *Annual Reports of the Librarian*). Registrations made in the Copyright Office under the Register of Copyrights, fiscal years 1898-1971 (source: *Annual Reports of the Register*).

<sup>3</sup> Labels registered in Patent Office, 1875-1940; Prints registered in Patent Office, 1893-1940 (source: memorandum from Patent Office, dated Feb. 13, 1958, based on official reports and computations).

<sup>4</sup> Registrations made July 1, 1976, through September 30, 1976, reported separately owing to the statutory change making the fiscal years run from October 1 through September 30 instead of July 1 through June 30.

<sup>5</sup> Reflects changes in reporting procedure.