

THE LIBRARY OF CONGRESS
COPYRIGHT OFFICE

FIFTY-FIRST ANNUAL REPORT
OF THE
REGISTER OF COPYRIGHTS

FOR THE FISCAL YEAR
ENDING JUNE 30

1948



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The Copyright Office

REPORT TO THE LIBRARIAN OF CONGRESS BY THE REGISTER OF COPYRIGHTS

SIR: The copyright business and the work of the Copyright Office for the fiscal year July 1, 1947, to June 30, 1948, inclusive, are summarized as follows:

Fiscal year 1948 was notable for the Copyright Office. The reorganization into four divisions, which started nearly three years ago, was completed. Procedures were revised and work so organized that currency in operations was achieved for the first time since the dislocations occasioned by the war. A bill increasing the fees for the various services performed by the Office was enacted by Congress. The format and contents of the *Catalog of Copyright Entries* was radically changed to make it more serviceable. The policy of consulting the users of the Office was further extended and developed. Attention was given to the definition of a work of art, and as a result, changes were made in the requirements for registration of three-dimensional works of art, and finally, a number of significant court decisions occurred which affected Copyright. Total registrations amounted to 238,121 (a 3 percent increase over fiscal 1947); articles deposited numbered 364,567 (a corresponding increase); 217,911 of these were transferred to the Library; 3,170 were returned to claimants, and the remainder were placed in the reserve collections of the Office. Fees totalled \$525,510.25 (an increase over 1947 by 11 percent).

Organization of the Office and Revision of Procedures

The reorganization of the Copyright Office, initiated near the end of fiscal year

1945, was completed, with the result that 11 independent sections were converted into four divisions: the Examining Division, which reviews all applications for copyright registration; the Cataloging Division, which catalogs all works deposited for copyright, giving fuller treatment to certain categories, particularly certain of the materials added to the Library's collections; the Reference Division which conducts searches of the records of the Copyright Office and answers inquiries from the public concerning matters of copyright; and the Service Division, which receives and dispatches mail, records all moneys received, and maintains the files of the Office.

Volume of Work

The great increase in the work-load of the Office (amounting to 41 percent in the past five years) made it impossible to continue operations as formerly. Work not considered absolutely essential and not required by law had to be eliminated, and all possible short cuts in operations were adopted. Bibliographical searches were refused when considered not necessary for the protection of copyright interests of the inquirer. The information contained in the *Catalog of Copyright Entries* was in some classes reduced, and semiannual and annual volumes were substituted for monthly issues. (The increased appropriations for fiscal 1949 will, however, make it possible to give more adequate and prompt service to the public.)

These economies are reflected in the production of the various units for the

year. The Cataloging Division, for example, entered the year with a massive backlog of 32,824 registrations. Faced with this arrearage and the rising number of registrations, the Division was also compelled to undertake a drastic curtailment in staff, involving the loss of 18½ positions (20 percent of the authorized force of 89). To meet this situation, the Division gave immediate attention to the development of procedures which would enable it to achieve and maintain currency. Accordingly, a 3-day work-load was established as the "on hand" figure to represent currency of primary cataloging operations, calculated to be in the range of 2,400 to 3,000 registrations. By the rearrangement of processes and the consolidation of certain operations, through the revision of cataloging standards involving the omission of certain data, and finally by a concerted effort on the part of the staff, currency was reached for the first time on November 28, 1947. The year ended with the lowest "on hand" figure (1,124 registration) ever obtained within recent years. With a staff of 42, the Examining Division reviewed the 238,121 registrations received. Among the problems connected with registration in which the Division participated in studies with the Head Attorney were: three-dimensional works of art, television programs, the effect of a more liberal rule in registering arrangements of musical compositions, and the possible registration of unpublished manuscripts. The Reference Division, with 10 employees, responded to 10,204 search requests (as against 9,855 in 1947). Limitations of staff made it impossible to comply with all requests for searches. Bibliographic searches for attorneys and heirs seeking complete record of deceased authors' copyright works in the settlement of estates could not be undertaken; ordinary searches have been a month in arrears;

and no investigations have been made of current publications to ascertain whether copyright is claimed without registration having been made. The Service Division processed and dispatched 250,148 outgoing pieces of mail and filed a total of 605,817 cards in indexes in the Office, in addition to handling the fees received.

Increases in Copyright Fees

In connection with the Library's estimates for fiscal 1948, the House Appropriations Committee pointed out that the fees for copyright registrations were "woefully inadequate to cover present-day costs. They are badly in need of revision." In line with this view, the Chairman of the Legislative Subcommittee on Appropriations (Mr. Johnson, of Indiana) introduced a bill on January 13, 1948, providing for an increase in registration fees. This bill became law on April 27, 1948, and the new scale of fees, listed at the conclusion of this account, became effective thirty days later, on May 27, 1948.

Publications of the Copyright Office

The *Catalog of Copyright Entries*, beginning with the calendar year 1947, has been issued in a new series and an enlarged format. This change is part of the program begun in 1946 to increase and extend the usefulness of the compilation. The several classes of registrations are separated to make it possible to supply information of value to particular groups, such as those interested in music, motion pictures, drama or art. As a result, the *Catalog* now appears in 12 parts, numbered in accordance with the classes of material described by the Copyright Act, instead of in 6 arbitrarily numbered parts, as was formerly the case. Each part of the *Catalog* is issued semiannually with the exception of 14-A, *Renewal Registrations of Literature, Art and Film*, which is an annual volume for 1947, and part 2, *Periodicals*, which is a

biennial volume covering the years 1946 and 1947. The new three-column format was adopted to permit the use of larger and more readable type. Changes in forms of entries were made in certain classes in the interest of speed of operation and increased usefulness, and procedures were extended for the preparation of copy for the *Catalog* by use of a mounted-card technique, which makes use, as the printer's copy, of an original entry in card form. These changes have made possible a substantial saving in catalog production costs.

Sixteen issues of catalog parts of the *Catalog of Copyright Entries* were published in fiscal 1948.

Registration and Deposit of Works of Art

For many years it had been the practice of the Copyright Office to accept without question any statue or painting offered for copyright registration, but in determining whether to accept other "works of art," the Office has not always followed a uniform policy. In some instances it considered the individual case on its merits, in attempting to determine whether the particular object constituted a work of art. This last year, the Office reconsidered the question of what constitutes a work of art within the meaning of the Copyright Act, with the result that it has broadened the list of articles which are accepted. It will not only continue to accept all works of fine art without question, but will also register other works of art if they display artistic features, whether or not, like book ends, ash trays, artistic jewelry, enamels, or silverware, they have utilitarian purposes. At the same time the *Code of Federal Regulations* was amended to require that deposits for registration of three-dimensional works of art be accompanied by photographs in order to identify them without the necessity of retaining the work of art itself, although the registrant also retains the

option contained in the statute of sending for deposit the article of art itself.

Outstanding Copyright Cases

The outstanding court decision of the year, as far as the copyright law is concerned, is *Wodehouse v. Commissioner*, 166 F. 2d 986 (4 C. C. A., 1948), in which the Court of Appeals for the Fourth Circuit flatly disagreed with the Court of Appeals for the Second Circuit on an almost identical set of facts, concerning the divisibility of copyright. In the present case, the court held that the sale of serial rights in a copyrighted novel does not amount to a license, but constitutes the sale of personal property. The court pointed out the "undeniable fact that serial rights, book rights, dramatic production rights and motion-picture rights of a literary production are property rights which may be and are separately and effectively bought and sold in the literary market," and that there is nothing "inherent in the nature of a copyright which renders impossible the separate sales of the several parts which comprise the whole." Until this decision, the courts had rather consistently maintained that copyright was an indivisible bundle of rights. The Supreme Court will have an opportunity to consider this important question, since a writ of certiorari has been applied for.

In the case of *Edward B. Marks Music Corp. v. Foulton*, 77 U. S. P. Q. 502 (D. C. S. D. N. Y., 1948), the court, in denying plaintiff's action for infringement, advanced the novel concept that the right of mechanical reproduction under the compulsory licensing provision of the law includes the right to make a version and arrangement of the musical composition involved. In overruling the contention that the copyright owner possesses the exclusive right to make a version and arrangement, the court pointed out that while this may be so for the purposes of printing, reprinting, etc., it

is not applicable to phonograph records.

In a further proceeding in a case mentioned in the Annual Report for last year, *Shapiro, Bernstein & Co., Inc. v. Jerry Vogel Music Co.*, 73 F. Supp. 165 (D. C. S. D. N. Y., 1947), the court held that one coauthor of a song is accountable to the other coauthor for their, or either of their, transactions. The New York Supreme Court adopted the same view in *Jerry Vogel Music Co. v. Miller Music Co.*, 75 U. S. P. Q. 205 (N. Y. Sup. Ct., App. Div., 1947). This view is contrary to that followed in patent cases, and these two cases in effect overruled the only prior decision holding that the patent analogy was valid in copyright cases.

The case of *Vargas v. Esquire*, 164 F. 2d 522 (7 C. C. A., 1947), is of interest because of the plaintiff's contention that he possessed a "moral right" in his drawings even after his work contract expired, and that the court should accordingly enjoin publication of the drawings unless his name was affixed thereto, in order to protect his honor and integrity. The court dismissed this contention, pointing out that while such doctrine prevailed in many foreign countries following the civil law, it did not exist in our law.

In *Johnston v. Twentieth Century-Fox*, 187 Pac. 2d 474 (Cal. Dist. Ct. App., 1947), the court found that the title of the book "Queen of the Flat Tops" had a secondary meaning, and, in affirming that copyright protection in a book did not extend to the title thereof, upheld the author's property right in that title, arising from his intellectual labor in its creation. In another case involving common-law property rights, *Chamberlain v. Feldman*, 76 U. S. P. Q. 203 (N. Y. Sup. Ct., Spec. Term, 1948), the legal representatives of Mark Twain attempted to restrain publication of a newly discovered Mark Twain manuscript by the person having possession of the manuscript. They were unsuccessful

because of a failure to show any facts about the original disposition of the manuscript, and the court presumed that under such circumstances the transfer was legal and carried with it all rights, including that of publication.

The rather unusual situation of an American court, in an action involving infringement of a United States copyright, incidentally interpreting the copyright law of Great Britain, arose in *Khan v. Leo Feist, Inc.*, 165 F. 2d 1888 (2 C. C. A., 1947), where the court held that a written assignment of the song "Rum and Coca-Cola," confirming an oral assignment made two years earlier, was sufficient compliance with the British law requiring that an assignment be in writing.

Two points of interest arose in *Alfred Bell & Co. v. Catalda Fine Arts, Inc.* 74 F. Supp. 973 (D. C. S. D. N. Y., 1947). Half-tone reproductions of mezzotint engravings were carried in the catalog of a print producer and also in that of the Guild of which it was a member. Although no copyright notice appeared in either publication, and notwithstanding that both catalogs were widely circulated, the court held that there was no abandonment of copyright, since it was "obvious" that the circulation was solely for "advertising purposes." The second point concerned the holding that the price-fixing and restraint-of-trade practices engaged in by the copyright owner, in violation of the antitrust laws, was no defense to the infringement action, the remedy under the antitrust laws being exclusive.

A notable example of a remedy under the antitrust laws is found in the case of *U. S. v. Paramount Pictures*, 334 U. S. 131 (1948), where the Supreme Court upheld the action of the United States in seeking injunctions and other relief against motion picture producers and exhibitors for practices violative of the antitrust laws. The court held the following practices, among

others, to be illegal: provisions in licenses for the exhibition of copyrighted motion pictures fixing the prices to be charged; provisions in licenses permitting a theater circuit to allocate the playing time and film rentals of copyrighted motion pictures; and

the practice of "block-booking", i. e., the refusal to license one or more copyrighted motion pictures unless another is accepted.

Tables showing the volume of work and the new fee schedule follow.

REGISTRATION BY SUBJECT MATTER CLASSES FOR THE FISCAL YEARS 1946 TO 1948, INCLUSIVE

Class	Subject matter of copyright	1946	1947	1948
A	Books:			
	(a) Printed in the United States:			
	Books proper.....	7, 679	9, 903	9, 786
	Pamphlets, leaflets, etc.....	30, 554	34, 940	35, 797
	Contributions to newspapers and periodicals.....	5, 504	4, 400	5, 963
	Total.....	43, 737	49, 243	51, 546
	(b) Printed abroad in a foreign language.....	3, 513	3, 970	2, 545
	(c) English books registered for ad interim copyright.....	610	712	683
	Total.....	47, 860	53, 925	54, 774
B	Periodicals (Numbers).....	48, 289	58, 340	59, 699
C	Lectures, sermons, addresses.....	1, 129	972	1, 263
D	Dramatic or dramatico-musical compositions.....	5, 356	6, 456	6, 128
E	Musical compositions.....	63, 367	68, 709	72, 339
F	Maps.....	1, 304	1, 779	1, 456
G	Works of art, models, or designs.....	3, 094	4, 044	3, 938
H	Reproductions of works of art.....	317	540	309
I	Drawings or plastic works of a scientific or technical character.....	1, 777	2, 147	1, 619
J	Photographs.....	1, 752	1, 838	1, 844
KK	Commercial prints and labels.....	7, 975	9, 674	10, 619
K	Prints and pictorial illustrations.....	5, 384	6, 506	6, 686
L	Motion picture photoplays.....	774	666	632
M	Motion pictures not photoplays.....	1, 250	1, 418	999
RR	Renewals of commercial prints and labels.....	33	21	20
R	Renewals of all other classes.....	12, 483	13, 180	15, 796
	Total.....	202, 144	230, 215	238, 121

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NUMBER OF ARTICLES DEPOSITED DURING THE FISCAL YEARS 1946 TO 1948, INCLUSIVE

Class	Subject matter of copyright	1946	1947	1948
A	Books:			
	(a) Printed in the United States:			
	Books proper.....	15,358	19,806	19,572
	Pamphlets, leaflets, etc.....	61,108	69,880	71,594
	Contributions to newspapers and periodicals.....	5,504	4,410	5,963
	Total	81,970	94,096	97,129
	(b) Printed abroad in a foreign language.....	3,660	3,970	2,545
	(c) English books registered for ad interim copyright.....	610	713	683
	Total	86,240	98,779	100,357
B	Periodicals.....	96,578	116,680	119,398
C	Lectures, sermons, etc.....	1,129	972	1,263
D	Dramatic or dramatico-musical compositions.....	5,877	7,056	6,659
E	Musical compositions.....	72,824	79,428	85,359
F	Maps.....	2,558	3,526	2,855
G	Works of art, models or designs.....	3,938	5,454	5,055
H	Reproductions of works of art.....	596	1,064	609
I	Drawings or plastic works of a scientific or technical character.....	2,375	3,014	2,336
J	Photographs.....	2,605	2,982	2,945
KK	Prints, labels, and pictorial illustrations.....	26,344	31,848	34,563
and K				
L	Motion picture photoplays.....	1,545	1,312	1,254
M	Motion pictures not photoplays.....	2,440	2,741	1,914
	Total	305,049	354,856	364,567

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GROSS RECEIPTS, ETC., SINCE JULY 1, 1897

Since July 1, 1897, the date of organization of the Copyright Office, the total registrations have been 7,255,883 and the total receipts for fees, \$9,870,212.90. The figures, year by year, appear in the following table:

STATEMENT OF GROSS CASH RECEIPTS, YEARLY FEES, NUMBER OF REGISTRATIONS, ETC., FOR 51 FISCAL YEARS

Year	Gross receipts	Yearly fees applied	Number of registrations	Increase in registrations	Decrease in registrations
1897-98.....	\$61,099.56	\$55,926.50	75,545	.....	.....
1898-99.....	64,185.65	58,267.00	80,968	5,423	.....
1899-1900.....	71,072.33	65,206.00	94,798	13,830	.....
1900-1901.....	69,525.25	63,687.50	92,351	.....	2,441
1901-2.....	68,405.08	64,687.00	92,978	627	.....
1902-3.....	71,533.91	68,874.50	97,979	5,001	.....
1903-4.....	75,302.83	72,629.00	103,130	5,151	.....
1904-5.....	80,440.56	78,058.00	113,374	10,244	.....
1905-6.....	82,610.92	80,198.00	117,704	4,330	.....
1906-7.....	87,384.31	84,685.00	123,829	6,125	.....
1907-8.....	85,042.03	82,387.50	119,742	.....	4,087
1908-9.....	87,085.53	83,816.75	120,131	389	.....
1909-10.....	113,662.83	104,644.95	109,074	.....	11,057
1910-11.....	113,661.52	109,913.95	115,198	6,124	.....
1911-12.....	120,149.51	116,685.05	120,931	5,733	.....
1912-13.....	118,968.26	114,980.60	119,495	.....	1,436
1913-14.....	122,636.92	120,219.25	123,154	3,659	.....
1914-15.....	115,594.55	111,922.75	115,193	.....	7,961
1915-16.....	115,663.42	112,986.85	115,967	774	.....
1916-17.....	113,808.51	110,077.40	111,438	.....	4,529
1917-18.....	109,105.87	106,352.40	106,728	.....	4,710
1918-19.....	117,518.96	113,118.00	113,003	6,275	.....
1919-20.....	132,371.37	126,492.25	126,562	13,559	.....
1920-21.....	141,199.33	134,516.15	135,280	8,718	.....
1921-22.....	145,398.26	138,516.15	138,633	3,353
1922-23.....	153,923.62	149,297.00	148,946	10,313

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STATEMENT OF GROSS CASH RECEIPTS, YEARLY FEES, NUMBER OF REGISTRATIONS, ETC., FOR 51 FISCAL YEARS—continued

Year	Gross receipts	Yearly fees applied	Number of registrations	Increase in registrations	Decrease in registrations
1923-24.....	167,705.98	162,544.90	162,694	13,748	.....
1924-25.....	173,971.95	166,909.55	165,848	3,154	.....
1925-26.....	185,038.29	178,307.20	177,635	11,787	.....
1926-27.....	191,375.16	184,727.60	184,000	6,365	.....
1927-28.....	201,054.49	195,167.65	193,914	9,914	.....
1928-29.....	322,135.82	308,993.80	161,959	.....	31,955
1929-30.....	336,980.75	327,629.90	172,792	10,833	.....
1930-31.....	312,865.41	309,414.30	164,642	.....	8,150
1931-32.....	284,719.20	280,964.90	151,735	.....	12,907
1932-33.....	254,754.69	250,995.30	137,424	.....	14,311
1933-34.....	258,829.53	251,591.50	139,047	1,623	.....
1934-35.....	269,348.81	259,881.70	142,031	2,984	.....
1935-36.....	293,149.82	285,206.90	156,962	14,931	.....
1936-37.....	295,313.24	280,541.40	154,424	.....	2,538
1937-38.....	326,326.67	298,799.60	166,248	11,824	.....
1938-39.....	330,466.37	306,764.40	173,135	6,887	.....
1939-40.....	341,061.35	320,082.90	176,997	3,862	.....
1940-41.....	347,125.35	347,430.60	180,647	3,650	.....
1941-42.....	376,906.63	351,158.10	182,232	1,585	.....
1942-43.....	324,300.99	306,836.70	160,789	.....	21,443
1943-44.....	333,270.24	319,466.30	169,269	8,480	.....
1944-45.....	367,402.04	338,812.90	178,848	9,579	.....
1945-46.....	405,740.58	379,738.00	202,144	23,296	.....
1946-47.....	471,119.41	442,626.10	230,215	28,071	.....
1947-48.....	525,510.25	487,475.20	238,121	7,906	.....
Total.....	10,333,823.91	9,870,212.90	7,255,883

REPORT OF THE REGISTER OF COPYRIGHTS, 1948

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SUMMARY OF COPYRIGHT BUSINESS, FISCAL YEAR 1948

Balance on hand July 1, 1947.....		\$106,961.00
Gross receipts July 1, 1947 to June 30, 1948.....		525,510.25
		<hr/>
Total to be accounted for.....		632,471.25
		<hr/>
Refunded.....	\$28,251.26	
Checks returned unpaid.....	496.00	
Deposited as earned fees.....	466,354.60	
Balance carried over to July 1, 1948:		
Fees earned in June 1948 but not deposited until July		
1948.....	\$58,243.70	
Unfinished business balance.....	16,848.49	
Deposit accounts balance.....	62,277.20	
	<hr/>	137,369.39
		<hr/>
		632,471.25
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Fees Applied

Registrations for prints and labels.....	10,619 at \$6.00	63,714.00
Registrations for published works.....	8,814 at \$4.00	35,256.00
	136,131 at \$2.00	272,262.00
Registrations for published photographs without certificates.....	449 at \$1.00	449.00
Registration for unpublished works.....	2,246 at \$4.00	8,984.00
	64,046 at \$1.00	64,046.00
Registrations for renewals of prints and labels.....	20 at \$6.00	120.00
Registrations for renewals, all other classes.....	14,897 at \$1.00	14,897.00
	899 at \$2.00	1,798.00
	<hr/>	<hr/>
Total number of registrations.....	238,121	
Fees for registrations.....		461,526.00
Fees for recording 5,234 assignments.....	\$15,926.00	
Fees for indexing transfers of proprietorship.....	2,839.70	
Fees for certified documents.....	2,027.00	
Fees for notices of user recorded.....	886.50	
Fees for searches made.....	4,270.00	
	<hr/>	25,949.20
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Total fees earned.....		487,475.20