Newsletters

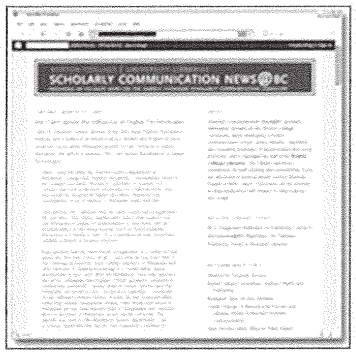
http://www.bc.edu/libraries/newsletter/2007spring/blog/index.html

BOSTON COLLEGE LIBRARIES
NEWSLETTER

VOLUME 8 NUMBER 2 SPRING 2007

Scholarly Communication News@BC

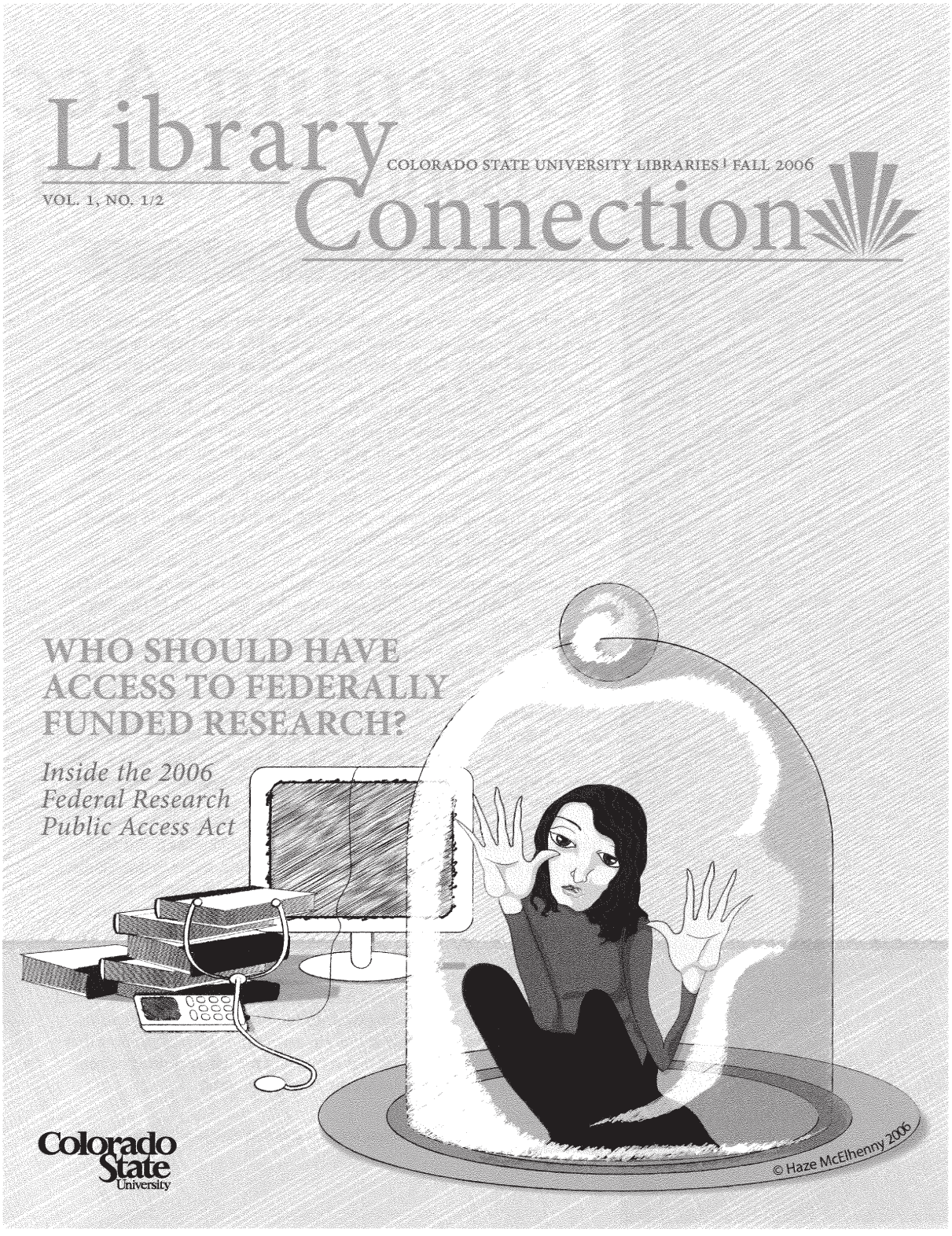
The Boston College Libraries have gone from strength to strength over the past decade with their collections, print, electronic, and other, having expanded dramatically. The Libraries are committed to continue building and making accessible strong collections in both traditional and digital formats in support of research and the curriculum. Nevertheless, the Libraries are challenged by the escalating quantity and costs of research publications that are rendering it increasingly difficult to purchase all the materials that will meet the scholarly needs of current and future faculty and students. On the other hand, while research libraries face complex and multi-faceted challenges, great innovative opportunities abound with respect to the dissemination of scholarship and research results. Growing numbers in the Academy are becoming aware that solutions to the problems facing libraries and to the various barriers restricting access to and dissemination of scholarship must center on the Academy reclaiming much of the power and control presently wielded by publishers or at least establish mechanisms, mainly electronic, for alternative diffusion of scholarship.



As a vehicle to discuss, publicize, and to garner feedback on some of these issues Boston College Libraries have recently established a blog, *Scholarly Communication News@BC*. This provides frequent information updates for the Boston College community about developing scholarly communication issues, policy debates, legislation and innovative examples of dissemination/discourse practices. Numerous other topics are candidates for discussion, for example Open Access; institutional and disciplinary repositories; authors' rights and copyright; digital scholarship and its relation to promotion and tenure; publisher mergers and acquisitions; author pays publication options; Google Book Project; the Bergstrom Eigenfactor; journal bundling/aggregating/big deal subscriptions; Web 2.0; Federal Research Public Access Act; the effect of open access and downloads on citation impact; the Alliance for Taxpayer Access; Directory of Open Access Journals. Many other subjects can be covered too.

The blog is fashioned with "permanent" links along a right section – subsections entitled: **About** (a brief description of the blog scope); **Related Library Pages** (local resources); **Recommended Sites** (national & international news); **Academic Scholarly Communication Blogs** (blogs created by peer institutions); and **Blog Archive** (links to older postings). The main area will be updated regularly, providing up-to-date news on the rapidly changing Scholarly Communication landscape. The libraries are providing this forum to inform and support discussions about posted news items. Contributors for both posting (posting requires an email invitation from blog administrators) and commenting are welcome. If you are interested in posting please contact Brendan Rapple or Mark Caprio.

Mark Caprio
eScholarship Program Manager


Library Connection
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VOL. 1, NO. 1/2
WHO SHOULD HAVE ACCESS TO FEDERALLY FUNDED RESEARCH?
Inside the 2006 Federal Research Public Access Act
Colorado State University
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Who should have access to federally funded research? Researchers? Professors? Students? Taxpayers? Should research findings be freely available on the Internet? What would be the impact if colleagues in all fields could exchange information with the click of a mouse and without the barriers of membership, subscriptions, or dues?

These questions have recently been brought to the forefront by the introduction of the Federal Research Public Access Act (FRPAA), a bill that would have eleven federal agencies, funding research across a broad spectrum of disciplines, require grant recipients to publish their work—online and free—within six months of publication elsewhere. Introduced in May by Senators John Cornyn (R-Texas) and Joseph Lieberman (D-Connecticut), the legislation aims to answer the growing concern that scholars, researchers, professionals, and the taxpaying public have limited access to significant research discoveries funded by federal agencies.

Last year alone, Colorado State University received more than $159 million in research funding from federal sources, leading to important advances in veterinary medicine, infectious disease, the treatment of debilitating illnesses, and more. Now, as the 2006 legislative session draws to a close, legislators on both sides of the aisle may push this bill to a floor vote. Advocates of the legislation see this bill as an opportunity to facilitate open exchange among researchers and rapidly increase the impact of research findings. Opponents have attacked the bill, claiming it is bad for research. This issue of *Library Connection* explores the fundamentals of the Federal Research Public Access Act (FRPAA) and asks: Who should have access to publicly funded research? And what would be the impact of this bill's passage on the CSU campus and beyond?

Opening Acc
Exploring the Federal

If Only Someone Else Had Heard

After his experiences on the battlefields of World War I, Alexander Fleming made a shocking discovery—bacteria could be an even deadlier force than enemy artillery. In the startling conditions of trench warfare, infection caused 15 percent of war-related fatalities, or roughly 5.5 million out of 37 million total deaths. Fleming returned to his London laboratory driven to find some way to prevent these deaths. His pursuit eventually led to the discovery that mold, specifically penicillin, could kill bacteria. Today, penicillin has become one of our most successful defenses against infectious disease; however, when Fleming published his findings in the *British Journal of Experimental Pathology* in 1928, his work raised little interest and was nearly lost to scientific obscurity.

It was not until 1938, ten years later, that British scientist Ernst Chain and Australian scientist Howard Florey rediscovered Fleming's article. On the eve of World War II, they began to test the effectiveness of Fleming's "miracle" mold on human subjects. Chain, Florey, and an expanded team of scientists, later known as the Oxford Group, took their discoveries to America where USDA scientists perfected the production process, manufactured the drug in mass quantities, and distributed it to Allied forces. The new "wonder drug" saved countless lives that would have otherwise been lost to infection on the battlefields of Europe and Asia. In fact, after the introduction of penicillin, deaths from infection virtually disappeared. Since then, penicillin has saved millions more lives worldwide and is one of the most widely prescribed antibiotics.[1]

Many of our most profound scientific discoveries share similarly humble beginnings. Anyone working in laboratories knows that it takes more than just one scientist, working in the predawn hours to unlock the secrets of the world. It takes another scientist, and then another, and then another to move from a first significant discovery to the practical application of research. Communication between researchers has long been the key to advancing research and accelerating the real world impact of those discoveries. Fortunately, the research community—with the assistance of scholarly associations, publishers, and libraries—has moved worlds beyond shouting "Eureka!" and running through the streets. Yet in today's world, with information increasingly at one's fingertips, it is amazing to note that some of the very same barriers that resulted in the ten-year delay of penicillin research and countless other discoveries still exist.

1. Maurois, A. The Life of Sir Alexander Fleming, Discoverer of Penicillin. Trans. Gerard Hopkins. New York: E.P. Dutton & Co., Inc., 1959.

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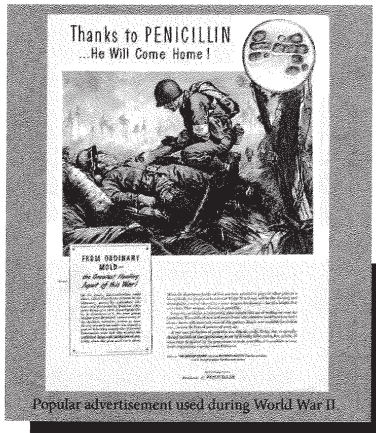
Research Public Access Act (FRPAA)

Scholars in all fields communicate their discoveries, ideas, and innovations largely through publication in peer-reviewed journals. Many of those scholars, working in universities around the country, depend on their university libraries to provide access to those journals through subscriptions. However, with journal prices escalating at rates that are two to three times greater than general inflation, this mode of communication is becoming increasingly impractical. Colorado State University Libraries provides the campus with over 31,000 current serials, including more than 23,000 full-text online journals, at a cost of approximately $3.6 million per year. That's roughly 65 percent of the Libraries' materials budget solely dedicated to supplying the campus with scholarship published in journals, leaving only 35 percent to spend on books and other important resources.

Unfortunately, in the past five years CSU Libraries has gone through two major journal cancellation projects due to exploding journal costs. Although the Libraries continues in its efforts to provide access to significant research findings via consortial partnerships, which permit the bulk purchase of journal titles in association with other universities, and an ever-expanding interlibrary loan effort, which vastly improves access to articles not in CSU's own collection, access is shrinking—not growing—in a way that contradicts modern advances in technology.

The Internet should enable instantaneous, immediate communication between researchers and scholars. Just imagine if Fleming could have sat down at a computer and told colleagues in England and beyond about the miracle mold that could knock out staph bacteria. In fact, the number of visitors to digital content on Web sites so far outnumbers traditional journal circulations that the potential to broadly, widely, and immediately impact the scientific community via publishing online is nearly limitless. Take, for example, the journal *Science*. *Science* is one of the most commonly cited journals and boasts 130,000 print subscriptions. Yet its Web site, which contains a mix of free and subscription-required portions, receives 1.8 million weekly visits.[2]

While many publishers are choosing to offer their materials electronically, the need for costly subscriptions, even for materials available online, continues to limit access. Such barriers to the exchange of information between scholars and researchers ultimately threaten to stifle research worldwide.



Popular advertisement used during World War II.

2. Young, T. *Science* Representative. Telephone interview, 23 October 2006.

Public Access Denied

Coupled with the strain on researchers is a growing movement to grant taxpayers access to research that is funded with taxpayer dollars. Led largely by the Alliance for Taxpayer Access (http://www.taxpayeraccess.org), an organization in which CSU is a founding member, the movement insists on developing open, online access to federally funded research. Its main advocates include universities, libraries, consumer groups, and perhaps most notably a long list of patient advocate groups including the Genetic Alliance (http://www.geneticalliance.org), a coalition of 600 disease-specific organizations that advocates for better healthcare treatments.

Sharon Terry became the coalition's president after she and her husband encountered astounding barriers to research literature that would help them understand the debilitating genetic disorder from which both of their children suffered. The Terrys worked around those barriers by volunteering at a hospital and gaining access to the hospital's library. Armed with the research that they were first denied, the Terrys became experts on their children's disorders and, working with a network of scientists, became co-discoverers of the gene responsible for the disorder.[3] Although it is uncommon for lay individuals to make such a significant impact in the research community, 80 percent of taxpayers, according to a recent Harris interactive poll, support a right to "open access" and have a strong desire not necessarily to view research findings themselves, but rather to feel the real-world benefits reflected when their own doctors, pharmacists, and other practitioners have better access to cutting-edge discoveries.[4]

What Everyone Should Know

The use of Prozac to treat depression in teenagers is a prime example of the kind of information arising from government funded research that the public needs and wants to know. In 2002, 11 million antidepressant prescriptions were written for U.S. children. However, no large scale study had been conducted on the impact of using those drugs in the younger population. Fortunately, a team of researchers at Duke University Medical Center conducted a study of adolescents taking antidepressants and found overwhelmingly that Prozac combined with talk therapy was the most effective means to substantially improve teen depression. However, the federally funded research study also revealed an increased likelihood for teens on Prozac to engage in harmful behaviors, including suicide attempts.

The results of the study were first published in August 2004 in the *New England Journal of Medicine*. It was not until two months later, in October of 2004, that the FDA issued warnings about the drug's risks and not until March of the following year that drug manufacturers issued "black box" warning labels for Prozac. NDC Health Inc. reported a 20 percent overall drop in prescriptions after the warning was issued.[5] It is difficult to know how many suicides or attempted suicides were impacted by the FDA's warnings. Regardless, teens, their parents, and their doctors had a stake in understanding the risks and benefits of the drug. This controversy illustrates an important point for those in favor of FRPPA and similar legislation: delayed communication of research findings can result in more than just intellectual stagnation and can have a costly, even devastating, effect on communities.

3. English, R. and M. Raphael. "The Next BIG Library Legislative Issue." American Libraries. 37 (8)2006: 30-33.
4. Ibid, 31.
5. Elias, M. "New Hope, New Dread." USA Today. 27 December 2005:D6.

The Voluntary Experiment

Advances in technology, combined with a desire for researchers to broaden the impact and scope of their work and the public outcry for access to research funded from their own pockets, have spurred advances in open access to federally funded research. The National Institutes of Health (NIH), whose $28 billion budget accounts for one-third of all federal dollars spent on research and which funds an estimated 65,000 peer-reviewed journal articles each year, adopted an open access policy in May of 2005. The NIH policy requests and strongly encourages all investigators to make NIH-funded research available to other scientists and the public through the NIH National Library of Medicine's *PubMed Central* (PMC) database immediately after the final date of peer-reviewed journal publication. The NIH has developed a password protected, Web-based NIH manuscript submission system that requires a simple uploading of a PDF version of final manuscripts; however, only 3 percent of researchers have participated in this program.[6]

It is unclear why the NIH's voluntary submission policy did not work, particularly since it was created by a balanced panel of publishers, scientists, patient advocates, scientific associations, and other organizations in conjunction with the NIH's director, Dr. Elias A. Zerhouni. Advocates of the NIH's policy quickly realized that the voluntary submission process may need to be mandatory in order to serve the research community and reach the Institute's open access goals.[7]

In May of this year, one year after the voluntary deposit experiment was launched with little success, Senators Cornyn and Lieberman introduced the Federal Research Public Access Act (FRPAA), a bill that would have federal agencies require grant recipients to publish their papers—online and free—within six months of their publication elsewhere.

Key Features of FRPAA

At its core, FRPAA aims to expand access to research in order to improve information exchange between researchers, help prompt new advancements, broaden impact of discoveries, avoid duplications, and support a greater return on taxpayer investment. The bill impacts federal agencies with an annual research budget of more than $100 million. This includes the Departments of Agriculture, Commerce, Defense, Education, Energy, Health and Human Services (which houses the NIH), Homeland Security, Transportation, the Environmental Protection Agency, the National Aeronautics and Space Administration, and the National Science Foundation.

The key difference between FRPAA and the current policy is that the bill would *require* grant recipients to deposit their papers, post peer-review and post publication, in an online repository maintained by the granting agency that ensures free, online, worldwide access and long-term preservation. The anticipated expectation is that these repositories would be similar to that of *PubMed Central*, which is searchable, stable, and easy to use. "The goal is to share information…and help spur new ideas which down the road can mean new treatments and cures for researchers, medical professionals, and patients," noted Lieberman in a joint press release to announce the bill. "It will help accelerate scientific innovation and discovery," added Cornyn.

6. National Institutes of Health. Open Access Policy. 29 September 2006 <http://publicaccess.nih.gov>.
7. Alliance for Taxpayer Access. Key Advisory Group Reaffirms that NIH Public Access Policy Should Be 6 Months and Mandatory. Alliance for Taxpayer Access Press Release. 13 April 2006 <http://www.taxpayeraccess.org/media/Release06-0413.html.>.

Read FRPPA for Yourself

The actual wording of the bipartisan bill can be found online at: <http://cornyn.senate.gov/index.asp?f=record&id=1&rid=237171>.

Impact on the CSU Campus

If FRPPA were to pass today:

- CSU students, faculty, and staff would have unlimited access from home, office, or campus computers to the more than 65,000 scholarly articles published as a result of research supported by federal funds.
- CSU faculty, staff, and students working on federally funded projects would be guaranteed a highly visible, easy-to-access venue in which to publish their work.
- The scholarly work of the CSU community would reach millions of people worldwide.
- The research findings of the CSU community would be preserved and protected to influence the discovery and scholarship of the future.

A Good Idea, So Why the Debate?

Given the significant impact that online technology has had on improving research, proponents contend that expanding the use of that technology to increase global access would no doubt have a positive effect on scholarship; however, the legislation has sparked a fierce debate. At the heart of that debate lies questions of how the policy will impact peer-review, challenge current publishing policies, and impact the budgets of the federal agencies.

The American Chemical Society(ACS), the world's largest scientific society, and the Association of American Publishers (AAP), with some 260 member publishers around the country, are two of the most vocal forces opposing the bill. In letters to Senators Cornyn, Lieberman, and Susan Collins (R-Maine), opponents argue that the bill would destroy the peer-review system, which ensures journal quality, and would pit federal agencies as competitors against scholarly publishers.[8] The ACS's publications arm and the Chemical Abstracts Service (CAS), a rich database of chemical information and literature, in 2004 earned $40 million for the society after accounting for the divisions' publication expenditures.[9] If their arguments against the bill hold water, the ACS has much at stake, at least commercially. But what of their societal mission "to encourage in the broadest and most liberal manner the advancement of chemistry and all its branches"?[10] During their national conference in August of 2005, after ACS came out against the NIH's open access database *PubChem*, a growing number of ACS members began to challenge the society's leadership, citing the contradiction in the society's stance. "I am growing increasingly upset with their direction," said Chris Reed, an inorganic chemist at the University of California, Riverside in a 2005 article published in *Nature*.[11] Some members have even wondered how the society could support limits to free access when it would benefit their own research.

Proponents of FRPAA note that the bill stresses the deposit of manuscripts post-peer review and implements a six-month embargo on public access, to acknowledge publishers' contributions and to avoid competition with their subscribers. According to the bill's FAQ, authored by Senator Cornyn, "The six month embargo will preserve the important role of journals and publishers in the peer review process. This provision balances important interests and ensures that research is widely available while it still is useful."[12]

In addition to the bill's own provisions, the idea that open access will damage subscriptions remains an open-ended question with some evidence pointing to the contrary. The few scholarly societies that have chosen to allow their authors to publish online, open access versions of their work after publication demonstrate that open access has had little effect on their ability to sell subscriptions in addition to the content they offer for free. A key example of this is the American Physical Society (APS). More than 30,000 articles a year are submitted to the APS, with some institutions paying upwards of $20,000 for full access to their publications. The society

8. Letter to Senators Cornyn, Lieberman, & Collins. 7 June 2006. <http://opa.faseb.org/pdf/CornynLiebermanCollinsLettersJune7.pdf>.
9. Maris, E. "Chemical Reaction." Nature. 437 (6) 2005: 807-809.
10. Ibid. 807.
11. Ibid. 807.
12. United States Senate. Office of Senator Cornyn. Federal Research Public Access Act FAQ. Basic Facts. 2 May 2006. <http://cornyn.senate.gov/doc_archive/05-02-2006_FRPPAFAQs.pdf>.

allows physicists to post their work anywhere that allows free access and without any delay. The editor, Martin Blume, notes that their policy has forced him to improve their publications and that subscribers, especially institutions, are still willing to pay. Since APS's journals date back to 1893, there is little or no comparison between what subscribers get access to for a fee and what an open access government depository could provide.[13] Some argue that with postings that include and credit the article's original publisher, the federal agency would seem to serve less as a competitor and more as a means to attract subscribers seeking the wealth of past publication that only for-fee services currently provide.

Although proponents argue that the bill protects peer-review by definition, some add that broadening access to scholars worldwide may also result in increased scrutiny of published work, which would in turn ensure greater quality control in scholarship. The January 2006 scandal of South Korean scientist Dr. Hwang Woo-suk, whose fabricated cloning research was published in the highly reputable *Science*, has brought speculation on the peer-review practice as a whole. Robert Terry, senior policy adviser at the U.K. medical charity the Wellcome Trust, suggests that adopting open access publishing models could be the key to detecting plagiarism and other problems. "We think it would be harder for people to plagiarize work once you can do extensive word searches and access more material free on the Internet," said Terry in an interview with the BBC in 2006, shortly after the scandal broke.[14] Scrutiny by a community of experts, made possible by increased access, may in fact be the extra checks the peer-review practice needs to shore up the process of ensuring accuracy in research.

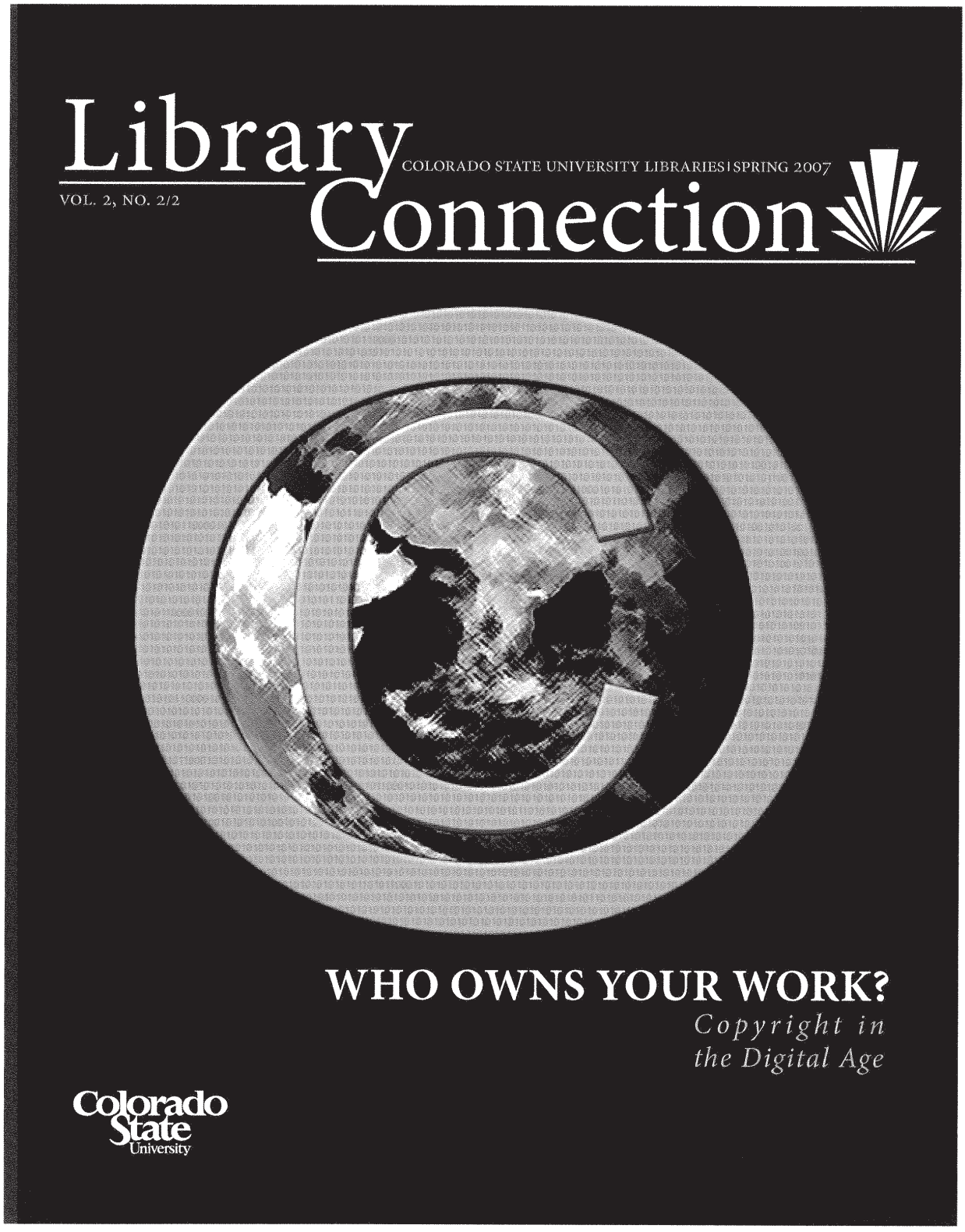
Opponents also contend that creating and maintaining the required online depositories would divert dollars away from supporting research.[15] The NIH's *PubMed Central* depository, according to agency estimates, has cost the agency less than 1 percent of its overall budget.[16] It is, perhaps, a very small price to pay for the potential impact of opening the doors to such important scholarship.

Take a Stand

Logon to the *Library Connection* Weblog (http://lib.colostate.edu/blogs/libraryconnection) to post your comments on this issue.

Contact Congress (http://www.congressmerge.com/onlinedb/powersearch.htm)

13. Jaschik, S. "In Whose Interest." Inside Higher Ed. 15 June 2006. <http://insidehighered.com/news/2006/06/15/open>.
14. Rincon, P. and J. Amos. Interview. BBC News. United Kingdom, 10 January 2006.
15. Baum, R. "Take a Stand." Chemical & Engineering News. 84 (23) 2006.
16. New England Journal of Medicine. 352 (2005) 17.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VOL. 2, NO. 2/2
WHO OWNS YOUR WORK?
Copyright in the Digital Age
Colorado State University

Who Owns Your Work?

Exploring Copyright in the Digital Age

It's been ten years since CSU Libraries launched its Web site, and since then the Internet has revolutionized the way we bring you information. Today the Library provides you with access to more than 24,000 electronic journals and more than 198 databases, regardless of whether you're at home, at the office, or out in the field. The Library Web site has no doubt transformed the way that CSU faculty and staff conduct their writing and research. The Internet has had a similar effect on the classroom, with students now able to do research from computer labs inside the Library, across campus, in their dorm rooms, and beyond. Thanks to the Library's Electronic Reserve system, we're also making it easier for you to share materials online with your students without the costly expense of paper copies.

As a society, we are in the midst of an information revolution. For the first time in history, Internet technology enables the dissemination of knowledge and the exchange of ideas both globally and instantly. The Internet is also transforming notions of authorship. As blogging, e-mail listservs, and other forms of online publishing are embraced across academia, the ways in which we publish and share our work are being radically transformed.

In the midst of this burgeoning technology, lawmakers are faced with important questions on the ways in which to govern—or, some would argue, to protect—information in the digital environment.

This issue of *Library Connection* explores copyright in the digital age. Who owns creative work and who has the right to share it? For educators, the "Know Your Copy Rights" insert, produced by the Association of Research Libraries (ARL), will serve as a quick guide to help you navigate some important questions when sharing digital content in the classroom. If you did not receive an insert, the information is freely available on the web at http://www.knowyourcopyrights.org/. We're happy to assist you in the Library and the General Counsel's Office can also answer specific legal questions pertaining to copyright information.

The article we present here in *Library Connection* is addressed to you as authors. It is meant to help you explore the options of ownership of your own creative work—the rights you have, the rights you sign away, and the rights you may want to keep.

In an academic setting, publishing is essential. It enables us to communicate our research and teaching to others, to further the exploration of ideas and theories, to share discoveries and make important advances that directly impact our communities and quality of life. Ideally, publishing gives us a voice in the vast discourse of our fields. Most practically, it provides us with professional standing and enables us to pursue important advancements such as tenure. Most view publishing as the end result of months or sometimes years of toil—the products of our research and teaching.

Once our work has been accepted, especially if it is to be published by a top tier journal, we often sign whatever paper the publisher puts in front of us. It is so important that our work has made the journey from our own desktop and into the wider world to be read, discussed, and hopefully cited that most of us probably don't even know what it is we are signing away.

I use the term "we" deliberately, to include librarians. Although open access is one of the key issues being tackled by libraries and librarians worldwide, a recent study shows that librarians are no more aware than other academic faculty of what rights they sign away, nor are they particularly motivated to publish in journals that allow them to retain their rights. According to an international study published by City University in London, 13% of authors across disciplines indicated a detailed interest in copyright and intellectual property rights. These results are strikingly similar to a 2007 survey of librarians published by researchers from Southern Illinois University Carbondale, which reported that only 10% of respondents indicated such an interest.[1]

The assertion is not that this behavior is bad or should be judged harshly; instead, the question is why do we do this? Why do authors take such little interest in the rights to their own intellectual property? And in today's online environment, when publishing lacks some of the traditional barriers and the environment more readily supports the dissemination of information, what is the effect of this behavior? Should we be doing something different with the rights to our own work?

1. Carter, H., C. Snyder and A. Imre. (2007) "Library Faculty Publishing and Intellectual Property Issues: A Survey of Attitudes and Awareness" Libraries and the Academy 7.1: p. 65-79.
2. Cartoon Credit: ESA European Space Agency (http://www.esa.int/SPECIALS/Intellectual_Property_Rights/SEMPF825WVD_1.html)

Traditional Publishing: A Brief History

There is no question that in the traditional publishing market, publishers add value to authors' work. Essentially, we sign away our rights to our work because of the efforts publishers put into our work in return—the long, labor-intensive process of facilitating peer-review; proofing, copy-editing, and typesetting; and marketing and distributing copies to readers. We provide the rights to our "intellectual property" and publishers provide the value of distributing our work. In turn, publishers profit from this exchange primarily by making money, and authors profit indirectly through tenure, promotion, acclaim, etc.

Copyright was born of this exchange—sort of. The printing press was introduced in England in 1476, and with it sprang up a literate public. It was then that authors began the tradition of selling their works to publishers, who in turn printed "copies." The first laws governing this trade were a means for the Crown to control "dissident tracts" and required registry with the Stationer's Company. This policy of censorship created essentially a monopoly of the book trade in England, and an elite, specialized class of book publishers and sellers emerged.[3] Even when royal censorship waned, they controlled what books were published because they held the rights to make copies, and so they controlled the ideas circulating in the public sphere and for how much those ideas were bought and sold.

Authors then, like the authors of today, retained some rights. The publisher could not add or subtract text, change the words, etc. However, the small number of publishers holding perpetual copyrights dictated what was publicly disseminated and their price control limited the number of people who could gain access to it. Effectively, their power amounted to a kind of censorship similar to that of the British monarchy's. It was generally in the publishing cartel's interest to publish work that sold, even if the work presented ideas that were controversial. Yet, if work was not making it out and onto the shelves, how would the public know what was lost?

By implementing the Statute of Anne in 1709, British Parliament tried to limit the monopoly power of booksellers and limited copyright to fourteen years duration, with a possible renewal by the author for an additional fourteen years. Copyright was also extended by twenty-one years for works that were then already in circulation.

As the twenty-one year extension neared its end, a copyright war of sorts ensued. Known as the "Battle of the Book Sellers," London publishers sought to retain their copyright in perpetuity. The publishers presented their struggle in terms of protecting the author's rights to proprietary ownership of their work. They argued that authors should have the right not only to own, but also to sell their rights to their work in perpetuity, thus protecting the publisher's rights to copy in perpetuity. The argument was fraught with personal tragedies where "pirates" stole works from upstanding businessmen.[4]

In the end, the Statute of Anne prevailed and copyright terms were limited to a set amount of time, after which works would transfer into the public domain. This meant that an author would always be regarded as the creator, but publishers small and large

3. Halbert, D. Intellectual Property in the Information Age. Connecticut and London: Quorum Books, 1999.
4. Ibid, p. 5-7.

Know Your Copyrights™
(http://www.knowyourcopyrights.org/)
A guide for educators using copyrighted works in academic settings

Copyright Permission Assistance Available to CSU Faculty and Staff

Photocopying or other reproduction of copyrighted works raises important legal issues for the University academic community. Although the Fair Use doctrine in the 1976 Copyright Act allows the use of copyright material for educational purposes, the law does not apply to many instances.

To help protect the University and help the academic community adhere to copyright permission law, the Department of Communications and Creative Services offers a copyright clearance and permission service to faculty and departments that print course packets and lab manuals sold out of the University Bookstore.

For more information, contact Juliana Hissrich, copyright clearance coordinator, at (970) 491-6432 in Communications and Creative Services, or submit your course packet order online at: http://www.ccs.colostate.edu/order_forms/fastprint_course-packets/. Some permissions can take six to eight weeks to receive from publishers and authors, so planning ahead is a must in the world of copyright.

could make copies of that work as long as they could afford the printing press technology. For the consumer, the expiration of copyright drastically reduced the cost of books, especially popular ones. In essence, the copyright limits greatly broadened the pool of those gaining access to knowledge. The decision broke the monopoly power of the booksellers, but also struck a balance between an author's rights (and by extension a publisher's rights) to profit from their creation while recognizing that knowledge is a public good. By offering a limited monopoly, publishers could profit for a time and then the works became public, more affordable, and more likely to benefit society as a whole.

In America, the Constitution gave "Congress the power to promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries." In order "to prevent the concentrated power of publishers," the framers of the Constitution supported "a structure that kept copyrights away from publishers and kept them short," at least for the first two hundred or so years (Lessig, 2004, p.130-131).[5]

Fast Forward: Publishing Goes Digital

Now it is 2007. We are all publishers. We all have the power and tools to create copies. This is not some Orwellian fantasy, this is our reality. We can all think of things, write them down, take pictures or record sounds, and transmit that information to a broad range of audiences around the world. We can send an e-mail to a listserv with a readership of hundreds. We can print a thousand copies of something and have it professionally bound for very little money. The very article that you're reading right now is also published online, in a blog. (You are welcome to log on and publish your thoughts on this issue for the world to read at http://lib.colostate.edu/blogs/libraryconnection/.)

In this market, traditional publishing still happens and copyrights are still exchanged. Each of you will probably publish one or more articles in a peer-reviewed journal this year. Chances are that your work will end up in an online version of the journal, or perhaps will only be published online when the journal publisher eliminates print versions to take advantage of the high speed and low cost afforded by the Internet. Therefore, publishing in this traditional fashion supports a broad-based dissemination of your work.

But, by giving publisher's the rights to disseminate your work, does this exclude you from exercising your own right to share your work with students and colleagues with the ease and convenience of the digital environment? Can you send the link of your work to a listserv of your colleagues? Can you reproduce a copy of your work to share with your class? Can you post your work on a personal, departmental, or university Web site? What if your library doesn't own the journal you've published in? What if your colleagues' libraries don't own the journal you're published in? If, a few years from now, the journal in which you've published goes under, what happens to your work?

5. Lessig, L. Free Culture. New York: Penguin Press, 2004
6. Cartoon Credit: www.cartoonstock.com

Free Culture vs Permission Culture

The answers to these questions? *It depends.* This is not meant to make you panic. Of the 149 publishers included in the RoMEO publishers' copyrights database, approximately 78% allow you to retain those rights, including the right to self-archive (posting to a personal, departmental or university Web site). Those publishers include the American Physical Society, Elsevier, and Cambridge University Press.[7] (You can access this list of publishers online at http://www.sherpa.ac.uk/romeo.php.)

The "Know Your Copyrights" pamphlet produced by ARL also explains that sharing your work with your students constitutes fair use, and is therefore allowed in the academic setting. But this also means that 22% of publishers included in the RoMEO database don't allow you to retain these kinds of rights to your own work. Among the publishers that don't allow you to self-archive are the American Chemical Society, the American Medical Association, and the Modern Humanities Research Association.[8] Because the RoMEO database is not comprehensive, it is likely that other publishers also don't allow you to retain your rights.

Almost as fast we develop information sharing technology, laws pop up to govern that technology. Copyright law is constantly shifting. In his book, *Free Culture*, Lawrence Lessig paints a bleak picture of how we are migrating away from a free culture that understands and values creativity and knowledge—where the best minds of the present exist because they can collaborate and build upon the creative giants of the past—toward a permission culture that seeks to define and limit the uses of culture and its future creators. In his book, Lessig outlines the ways in which the reach of copyright law has steadily expanded.

Over the last forty years, Congress has extended existing copyrights eleven times. One such addition, the Sonny Bony Copyright Term Extension Act of 1998 (CTEA), extended copyright effectively to 95 years.[9] The law extends back to any work published after 1923 and prevents that work from passing into the public domain.

Legally, when a work passes into the public domain this means that the author is still given credit for the work, but that the work can be copied and reproduced without the specific permission of the copyright holder. As previously mentioned, in the 1800s this introduced consumer competition into the print publishing market, and the result was that copies of works such as Shakespeare's plays could be acquired for much less money. Therefore, works in the public domain were accessible to many more people and many more people could be enriched by them. Extending copyright to 95 years greatly alters this equation, especially in the context of the Internet. For example, one could scan the *Complete Poems* by Charlotte Bronte (whose works are in the public domain) and make her work freely available online to anyone with an Internet connection. (Bronte would, of course, need to be given credit for her work.) However, one could not create the same type of Website using poems by William Carlos Williams, whose work is not in the public domain.

More importantly, when a work enters into the public domain, it commonly frees others to make creative or derivative works from it. Imagine, for example, if Shakespeare's works were not in the public domain. Would the copyright holder have approved Arthur Laurent's *West Side Story* or Craig Pearce's 1996 film *Romeo and Juliet*? Copyright was originally intended to expire so that published works would enter into our body of knowledge and could be creatively used by anyone. However, the CTEA restricts those rights to a single copyright holder and requires that individuals who wish to use that work track down the copyright holder and get their permission to use it—nearly 100 years after the work was produced. Why?

7. University of Nottingham. (2006) Sherpa RoMEO Publisher Copyright Policies & Self-Archiving. Retrieved February 28, 2007 from http://www.sherpa.ac.uk/romeo.php.
8. Ibid, retrieved March 12, 2007.
9. Lessig, p. 134-135.

Read the CTEA and DMCA for Yourself

The actual wording of the CTEA bill can be found online at: http://www.copyright.gov/legislation/s505.pdf.

The actual wording of the DMCA bill can be found online at: http://www.copyright.gov/legislation/dmca.pdf.

Arguably, the CTEA provides important benefits to those whose works are still commercially viable. The law has enabled copyright holders who retain the rights to profitable works to make money off of them. For example, Disney still owns Mickey Mouse, and Robert Frost's estate still owns the rights to his collection, *New Hampshire*. However, what about works that are no longer commercially viable? What about works that are orphaned or have gone out of print? What about works that could and should be shared with the masses? What about works that other creative minds wish to use as springboards?

Copyright requires no registration. There is no system of tracking copyright ownership. Therefore, if someone wanted to digitize these abandoned works to make them available again to the public they would first have to track down the copyright holder, which takes a tremendous amount of time and considerable effort.

In 1930, 10,047 books were published. In 2000, 174 of those books were still in print.[10] Unless it is stored in optimal conditions, the average shelf life of a book is 50-60 years. Legally, a library must go to extensive lengths to prove that it is not violating copyright to "save" copies of these works. Most often, the library can make a print photocopy, but that too that will degrade overtime. It cannot, however, make a digital copy that could be more readily stored and used.

The situation is perhaps more dire for film. The Museum of Modern Art houses 13,000 American films, over half of them are orphaned[11] and they are degrading as you read. Under the CTEA, they cannot be digitized or restored without permission, despite the fact that no one is claiming them. One hundred years from now, when and if their copyright expires, they will already be lost.

Likewise, if someone wanted to recreate a work in a new medium, such as making a book into a Web site or film, finding the copyright holder of an out-of-print work presents a daunting and sometimes impossible task. This begs the questions: In an effort to protect icons, what elements of our culture are being lost? What future creativity is being hampered?

Copyright as applied in the digital environment has also come to restrict the use of material far beyond the restrictions enforced in print. Traditional copyright protects only the first sale, meaning that once you've bought a book, CD, newspaper, magazine, etc. you are free to read it one hundred times, give it to a friend who can then give it to another friend, sell it at a used media store, or donate it to a library.

The Digital Millennium Copyright Act (DMCA) of 1998 changed all that. The act was aimed at enforcing copyright in the digital environment. However, the restrictions enacted by that law and the technology needed to enforce those restrictions severely limits our rights to digital materials that we've paid for—much more so than copyright law for print materials.

The DMCA effectively rendered behavior that was previously legal suddenly illegal. Under the DMCA, we cannot share purchased materials peer to peer (even if it's to a single friend, just like you would have done with that printed book). Access to materials can be restricted by digital publishing technology so that individuals can no longer read a book as many times as we want as we could have with a printed book. And forget about selling those items at a used media store or donating them to a library.

In other words, if you purchase a printed book, you can give it to a friend. If you purchase and download an Ebook and give that to a friend, you are committing an act of piracy. When a library purchases a print magazine, anyone could walk into the library and read it. When a library purchases rights to an online journal, the license may restrict access to only those who are formally affiliated with the institution that signed the contract and is paying for access. If you purchase a CD, you can sell it at any used music store and collect the profits. You could not do the same with the MP3 files of the same CD, even if you were to delete them completely from your computer.[12]

The DMCA is recognizably an industry reaction to the fact that items in a digital environment can be shared much more readily. An Ebook could be sent to 100 people by email, much like a music file could be sent to 10,000. These acts have been rendered illegal. Yet in doing so, we have allowed the passage of a law that exponentially expands other's control over how we use knowledge and ideas that we have bought and paid for. Is there a better balance that might be struck?

Current Standings

Regardless of where you fall in the copyright debate or the degree to which you view knowledge as individual property, a public good, or a mix of both, the reality is that something isn't working with the current state of copyright law. The forces of copyright and ownership and being paid for distributing intellectual property don't balance with the free exchange of knowledge and ideas in the way Internet technology can facilitate. There is evidence of this everywhere across all disciplines.

According to a recent survey conducted by the American Association for the Advancement of Science, scientists used to fear that patents would limit their access to research tools and technologies; however, that concern has been replaced by an increased difficulty in getting access to data.[13] Even though Congress has repetitively extended copyright terms over the last forty years, patent terms have been left alone and those rights expire after twenty years. The research community has long debated whether or not patents might infringe on important scientific advancement. Might this community raise the same debate around copyright, which now lasts almost a century?

The law as it stands seems also to be limiting the histories that can be told. When professors Cathy Davidson and Ada Norris sought to document the life of Yankton Nakota writer and activist Zitkala-Ša, their publisher would not even consider use of any works that fell outside of 1922, fearing the time and expense it might take to clear copyright claims.[14]

The law as it stands seems also to be limiting the music that can be played. Dr. Susan Pickett, Catharine Chism Professor of Music at Whitman College writes, "I have been dealing with the problem of orphaned copyrighted works during my 15 years of research about women composers. Frankly, I can see why some people just blatantly break the law: there are so many barriers and dead ends and catch-22s that it's frustrating beyond words even to the most law-abiding person… There needs to be an international registry of people who have legal rights over music so that it's easier to find out whom to contact for permission" (Duke Law School, 2005, p.2).[15]

Something about regulating the exchange of information isn't working, or isn't working as efficiently as it should be. In an information age, knowledge is at our fingertips. Yet, Congress continues to enact laws that restrict access. They will continue to do this unless more people engage in the shaping of knowledge in the digital environment.

Find Out More

Additional information about copyright and digital legislation:

- **The Lessig Blog** (http://www.lessig.org/blog/). Author of *Free Culture*, Lawrence Lessig is a professor of law at Stanford Law School and founder of the school's Center for Internet and Society. This blog discusses current copyright law and its cyber implications.
- **Public Knowledge** (http://www.publicknowledge.org/), an advocacy group working to promote and defend a "vibrant" information commons in the digital environment. The site includes resources, news releases, current legislation, litigation, and a blog on copyright and fair use policy.
- **American Library Association Copyright Page** (http://www.ala.org/ala/washoff/WOissues/copyrightb/copyright.htm) includes information on current copyright policies and debates.

10 Lessig, p. 222.
11. Center for the Study of the Public Domain at Duke Law School. (2005). *Access to Orphan Films: Submission to the Copyright Office*. Retrieved March 16, 2007 from http://www.law.duke.edu/cspd/pdf/cspdorphanfilm.pdf.
12. The UCLA Institute for Cyberspace Law and Policy. (2006). The Digital Milenium Copyright Act. Retrieved March 8, 2007 from http://www.gseis.ucla.edu/iclp/dmca1.htm.
13. Blumenstyk, G. (2007) "Study Shows Patents Don't Hurt Science." Chronicle of Higher Education. 53(21).p. 31.
14. Center for the Study of the Public Domain at Duke Law School. (2005). *Orphan Works Analysis and Proposal: Submission to the Copyright Office March 2005*. Retrieved March 16, 2007 from http://www.law.duke.edu/cspd/pdf/cspdproposal.pdf.
15. Ibid.

Managing Your Copyright

The great value of the Internet is that having a journal publish your work is no longer the end of the story. You have the power and tools to help distribute your own work so that it can resonate in ways never before imagined. First, you have to be sure to retain at least some of your copyright during the publishing process. Here's how:

- **Establish a Creative Commons License** (www.creativecommons.org). Creative commons is a nonprofit organization that helps "authors, scientists, artists, and educators easily mark their creative work with the freedoms they want it to carry." It allows you to copyright your work while enabling people to more readily copy and distribute your work—provided they give you credit—in the ways you want them to.
- **Publish in journals that allow you to retain your rights**. This will make it possible for you to share your work in the digital environment. The RoMEO database (http://www.sherpa.ac.uk/romeo.php) is a growing list of permissions that are normally given as part of each publisher's copyright transfer agreement. It is searchable by publisher and enables you to add publishers to the list. Self-archiving (posting on a personal/ departmental website or in a digital collection supported by the University) is a key right to retain so that you can create a digital copy of your own body of work.
- **Download the SPARC Author Addendum** (http://www.arl.org/sparc/author/addendum.html). When added to traditional publication agreements, the addendum will help you to retain more of your own rights to your journal publications and make it possible for you to more easily control your work in the digital environment (including protecting your right for online posting or using portions of your articles in future work.)

What Are Your Thoughts?

Logon to the *Library Connection* Weblog (http://lib.colostate.edu/blogs/libraryconnection) to post your comments on this issue.

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KU Scholar Works takes research to world

Research conducted by KU faculty members is regularly cited in publications around the world, but a new online repository is helping push it even further.

KU ScholarWorks, a digital collection of peer-reviewed research, conference papers, supplements to published items and books produced by KU faculty, has recently been made available to the public. The program stores the work and makes it easily accessible to information seekers.

Holly Mercer, coordinator of digital content development for the KU Libraries, said there are nearly 1,000 research articles and journal publications archived in the program. So far, the items have been downloaded more than 210,000 times and viewed more than 370,000 times.

Making the program available to the public has significantly increased the traffic within the program.

"People are finding the items in KU ScholarWorks," Mercer said. "It's indexed in Google and other major search engines. People are finding their way there."

The program is effective at helping people find the research for several reasons. Often people don't have access to an academic journal that publishes research useful to an individual's academic purpose. Every item in KU ScholarWorks has a permanent, citable URL that will not change. Faculty can give the URL to colleagues who request copies of publications. Plus, with the ever-increasing dependence on Internet search engines for information gathering, it makes sense to harness it as a resource to proliferate KU research, Mercer said. A digital repository also can help keep research in the public eye longer than a regularly published journal.

Mercer mentioned the long tail theory, which states that wider (electronic) distribution channels tend to increase readership for older, yet still relevant, research. Among print library collections, about 20 percent of items circulate regularly. When the idea is applied to online collections, the percentages are reversed, and about 80 percent of the content is viewed regularly.

Program's publishing power lands deal

Using the publishing power of KU ScholarWorks, Susan Craig, art and architecture librarian, helped land a partnership with AskArt.com, an online art database.

Her 2006 work, "Biographical Dictionary of Kansas Artists," is a rich collection of more than 1,700 artists who called Kansas home before 1945.

Right at home in database format, the searchable archive – or eBook – makes it possible for researchers to locate an artist by name, town or subject. KU ScholarWorks creates a living dictionary, and a stable URL allows libraries across the country to catalog the award- nominated work.

Given the depth and breadth of her project, Craig's efforts attracted the attention of AskArt.com, an online resource that features more than 52,000 American artists. The site is used primarily for collectors and art galleries, and offers a tremendous amount of information crucial to the art world.

When the president of AskArt.com contacted Craig with an offer to exchange a personal lifetime membership to their site for permission to upload "Biographical Dictionary of Kansas Artists," Craig countered with a proposal for campus-wide access. The current agreement provides six months of access campuswide, and AskArt.com has agreed to seek private support to underwrite the cost of long-term use.

"This partnership highlights the importance of KU ScholarWorks as a powerful resource in many fields," said Craig. "I'm pleased to be part of this program, and I look forward to seeing it grow in the coming years."

OREAD

CASE National Gold Medal Winner

February 19, 2007 : Vol. 31, No. 11

Three percent of the items in KU ScholarWorks have been downloaded at least 1,000 times, and 31 percent have been downloaded at least 500 times.

Allison Rose Lopez, public relations and marketing manager for Information Services, said KU ScholarWorks is taking advantage of evolving technology to archive and present the university's research.

"It's storing the information we're developing here for the KU of the future. But it's for more than just posterity. This is a new way of sharing knowledge."

More

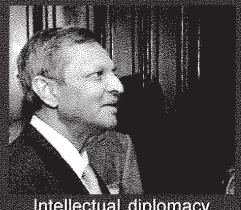
About KU ScholarWorks

Next Story >>

KU IQ

Four students were recently nominated for Barry M. Goldwater Scholarships, regarded as the premier undergraduate award to encourage excellence in science, engineering and mathematics. Since Congress established the scholarship program in 1986, KU has produced 41 winners.

CAMPUS NEWS



Intellectual diplomacy

Expanded wireless