

Information
Today, Inc.
invites YOU
to subscribe to
NewsLink

A **FREE** weekly e-mail newsletter, NewsLink is designed to highlight the information that both users and producers of information products and services need to do their jobs as effectively as possible. By subscribing, you will receive a full-length issue on the first of every month, as well as brief weekly updates every Monday.

Visit

www.infotoday.com

to subscribe!

NewsLink



Information Today, Inc.
143 Old Marlton Pike, Medford, NJ 08055

letter to the editor

CORPORATE LIBRARY COPYRIGHT EXCEPTION?

To the Editor:

It is disconcerting that there is so much confusion surrounding interpretation of the copyright law's library exception, 17 U.S.C. § 108. Does it or does it not apply to corporate libraries? In a recent article ("Copyright Clearances: Library Copying in the Digital Age," July/August 2005, pp. 32-36), K. Matthew Dames claims that it probably does not because corporate libraries are not open to the public.

According to the statute, § 108 libraries must be open to the public or available to researchers in a specialized field. The American Association of Law Libraries (AALL) Guidelines on the Fair Use of Copyrighted Works by Law Libraries states, "A library that makes its collection available to others by interlibrary loan or otherwise meets the 'open and available' requirement." The AALL relies on congressional testimony to support this statement.

Corporate libraries should qualify for § 108 if they participate in interlibrary loan and meet other qualifying conditions of § 108. Corporate libraries are free to distribute information among one another and to their patrons without copyright owner permission as long as they comply with the law. Trouble is, the law is hard to interpret.

The Section 108 Study Group, a group of information professionals including librarians and publishers, is currently meeting to address concerns raised by § 108. By mid-2006, the group is set to deliver draft revisions of § 108 to the Librarian of Congress. The group should work to bring clarity to § 108 and affirm the ability of corporate libraries to provide information without onerous copyright compliance rules that would hamper the flow of information in our business community.

Opinions expressed in this letter are my own and do not necessarily reflect the views of Dickstein Shapiro Morin & Oshinsky LLP.

Jeffrey H. Buckley

Reference Librarian

Dickstein Shapiro Morin & Oshinsky LLP

SECTION 108 STUDY GROUP

To Jeffrey H. Buckley and readers of *ONLINE*:

Thanks for your comments on the copyright article by K. Matthew Dames and for bringing the Section 108 Study Group to our attention. According to its Web site [www.loc.gov/section108], the study group "is a select committee of copyright experts, convened by the Library of Congress, and charged with updating for the digital world the Copyright Act balance between the rights of creators and copyright owners and the needs of libraries and archives." The list of meeting dates and locales is also on the Web site, although I note these are not public meetings.

I hope that the study group's recommendations will help clarify the issues you raise regarding the definition of "open to the public" for corporate libraries. I do notice, however, that there is not a single corporate librarian as a member of the study group and the publishing community is well-represented. Co-chair Lolly Gasaway, a member of SLA (Special Libraries Association) and longtime contributor to its intellectual property activities, but working in an academic setting, is the one most likely to understand the implications of Section 108 for corporate librarians.

Speaking personally, as a former corporate librarian, if I were told that participating in interlibrary loan activities with my colleagues in other libraries constituted being "open to the public," I would cease these cooperative agreements and hire a document delivery firm.

Marydee Ojala

Editor, *ONLINE*: The Leading Magazine for Information Professionals