



Beyond the Book – “Copyright, Small Publishers and the Future”

April 30, 2008

OPERATOR: Welcome, and thank you for standing by. At this time, all participants are in a listen-only mode. During the question and answer session, please press star one on your touchtone phone. Today's conference is being recorded. If you have any objections, you may disconnect at this time.

Now, I'd like to turn the call over to Mr. Chris Kenneally. Thank you, sir. You may begin.

KENNEALLY: Thank you very much, Cindy, and thank you all for joining us for another edition of a program we call *Beyond the Book*. My name is Chris Kenneally. I'm the director of author relations for Copyright Clearance Center just based outside of Boston, and we do programs like this on a regular basis at www.beyondthebook.com.

Today's program is a very special edition, a focus on small publishers and their role in the marketplace, in the book publishing marketplace. In particular, we're inviting members of the Small Publishers Association of North America to join us today, and with us for this discussion we have Scott Flora. Welcome, Scott.

FLORA: Thank you, Chris, and welcome, everyone. Glad to be here.

KENNEALLY: Scott is the executive director for the Small Publishers Association of North America, which we'll call SPAN as he does himself, and he's there online at spanet.org. Since 1996, SPAN's been committed to supporting authors and independent publishers in a variety of ways to advance the image and the profits of that group through education and marketing opportunities. And we've been working with SPAN over the last year or so and have some very special news in that regard.

We also have joining us from New York Michael Healy. Welcome, Michael.

HEALY: Thank you. Good afternoon.

KENNEALLY: Michael is the executive director of the Book Industry Study Group, which I hope many of you are familiar with. They're a not-for-profit research and technology standards organization whose members come from every sector of the publishing community. They serve as a forum for managing change and enabling interaction among publishers, book sellers, librarians, authors and the whole value chain of the publishing industry. And Michael's going to be talking with us about some very important research findings that BISG has made over the last several years.

And finally, we have from just down the hall, a colleague of mine, Dru Zuretti. Welcome, Dru.

ZURETTI: Hi, Chris. Thanks very much for inviting me to be with you.

KENNEALLY: You're welcome indeed. Dru is the manager of copyright education for Copyright Clearance Center.

We're going to connect several dots here on this call, one of which is to share with you some of the work that the nonprofit CCC is trying to do to encourage respect for the principles for copyright, which is, I think, very important for anyone who is spending time and money creating these kinds of works. You want to see them protected in the proper way.

A few rules of the road for the call. We will take no more than an hour. We certainly respect everybody's very busy schedule and we appreciate the fact that you've taken an hour of your time to join us today, and we're going to stick to that. The first part of the program, the conversation with the various panelists, will take about 20 to 25 minutes.

We will leave as much time as we can for any questions you have for Scott, Michael or for Dru. You can ask your question in one of two ways. My e-mail is open here in front of me and if you wish to e-mail your question, you're welcome to do so. E-mail that directly to me at beyondthebook@copyright.com. And as the operator explained, you can also press star one on your phone. That will indicate to the operator that you wish to speak and she will call on you in your turn. So once you've pressed the star one, you may not get an immediate response, but just hang in there and we will get to you in the order in which you raised your hand, so to speak.

Let me start first of all by turning to Scott here. Scott, what I'd like to do for the folks on the phone right now is to kind of set the table, if you will. As the executive director for the Small Publishers Association of North America, you have seen the industry changing really before your eyes, and certainly, I would expect you feel that the role of the small and independent publisher is one that's becoming increasingly important in the industry.

FLORA: Absolutely. There are lots of trends that are going on, and Michael will probably talk about some of these, that have benefited the small publisher. One of them, I would say, is the ability to print books at a low cost per book. Also, big box stores need books, and then of course there's online marketing, both with your own website and some of the larger online marketers. So a lot of those trends are supportive of small publishers.

KENNEALLY: Right. And it's interesting, isn't it, with the way the technology is contributing to all of this, and even though someone as prominent as Steve Jobs had said that he didn't really care about e-books because, quoting him, no one reads books anymore, it's very much not true. People are reading books. The book side of publishing remains relatively strong.

We hear that the newspaper business is under tremendous pressure and we can understand why that would be the case. Scientific journals, likewise. But book publishing, I think we can expect the book as a form to be around for some time to come.

FLORA: Absolutely. And a lot of the comments, the Steve Jobs comment, you heard a lot of backlash of people saying, I like to hold a book in my hand. I like the feel of books. And of course, at Christmas time, you're not going to give somebody an e-book file for Christmas. You're going to give them a book that they can hold in their hands. So that's a huge part of the market.

KENNEALLY: Indeed. And what we are going to be telling your members about in the next several weeks and over the course of the following year is a relationship that we're going to be developing for CCC and for SPAN, a kind of a partner program that will help us bring some of the licensing solutions that CCC has pioneered over the last 25 years to them.

And I think it's interesting to note that just as some of the points you made are true as far as actually publishing the book, that the technology is allowing smaller players to get in to produce high quality product, to be able to reach markets that would have been very costly to reach in the past. So it's also true that licensing the work and finding royalty opportunities beyond the obvious is now more possible than ever, and some of the things the Copyright Clearance Center does makes that possible for them.

Up to now, it's been true that we've worked with many of the major publishers in the US and globally, but we recognize at the Copyright Clearance Center the growing importance of this segment of the industry, so we want to try to serve them better. So over the next few weeks, we hope that SPAN members will keep an eye on their e-mail inbox to learn more about a way they can work with SPAN to register and license their works with Copyright Clearance Center and begin to realize additional permission royalties from that, and at the same time, participate

in the effort that we make regularly to foster this respect for intellectual property that's so important today.

But what I'd like to do now is to set the table further by bringing Michael Healy in. Michael, welcome again.

HEALY: Thank you.

KENNEALLY: I would like to give you an opportunity to tell the audience a bit about what BISG does and why the information you generate is so important to industry players large and small. And in particular, we're going to focus on a report that was kind of a groundbreaking report you did and published in 2005 called *Under the Radar*.

But tell us about BISG's research program, if you will, briefly.

HEALY: Yes, I'd be happy to do that. For those who don't know, the Book Industry Study Group was established just over 30 years ago, and the intention was to create a membership body, a nonprofit body, that really was focused on improving the efficiency and the effectiveness of the supply chain for the entire book industry and to do that in a number of ways, to create standards in areas like business communication and EDI and product information and to maintain those standards as we develop them, but also to have a very prominent research and education mission as well.

We've been doing research really since the formation of BISG 30 years ago in a number of different areas. But we're probably best known, it's fair to say, for the statistical research that we've done on the size of the book industry in the United States now for about 30 years.

KENNEALLY: Right. And in fact, I'm holding in my hand the *Book Industry Trends 2007*, which is a 250-page summary of all that research and breaks the industry up into a number of obvious segments – juvenile, trade, religious, college, professional and so forth – and really is exhaustive in its thoroughness, I would say, and includes as well commentary on what all these numbers are trying to say to us.

You work on estimates as well as projections, so it's not only a snapshot of today but a look back and as much as you can, a look ahead to kind of give people perspective here and to create, I think, more transparency in the industry, particularly in an industry where so much of what people do. If you're a book publisher, you want to publish books you think are going to do well. You can do some of your own market research, but ultimately, it's about your gut. If you think this is a book that's going to be well-received in the marketplace, you're placing a bet, if you will.

HEALY: Right.

KENNEALLY: In 2005, BISG released a special supplementary report called *Under the Radar*, which was something of a breakthrough. Why was *Under the Radar* necessary to publish and what were some of the findings that were revealing to you?

HEALY: Well, the reason we took the decision back in 2005 to do a separate analysis of the small publisher market in the United States was a belief that this was a sector of growing importance, and paradoxically was a sector which no organization was seriously trying to quantify in any way.

And indeed, up to that point, that included the Book Industry Study Group. We'd been publishing the volume you refer to, Chris, *Book Industry Trends*, for 30 years, and our statistical overviews had I think fallen into the trap that many do, which is to focus almost exclusively on the larger publishing companies, who do inevitably dominate the market in so many ways.

But we grew in our understanding to realize that to focus on the top end is to miss completely a very dynamic, very successful and very fast-growing sector in our industry. So we did a separate analysis back in 2005 attempting to quantify the sales of publishers who individually have sales of \$50 million or less a year, and we published that report as a separate report called *Under the Radar*.

Then, because it was so well-received, we decided rather than keep publishing it annually, that we would roll the numbers from that small publisher survey into the larger volume of *Book Industry Trends*. Since the 2006 edition of *Book Industry Trends*, we've now included the research for the whole industry, both the large and the small. And when we publish the 2008 edition, which we'll do on June 16, it will continue that process of trying to reflect very comprehensively the large players and the small players equally.

And as I say, small is defined as companies with income or revenue of less than \$50 million per year.

KENNEALLY: Which obviously covers a multitude of sins. And I think one thing that's important to point out to the audience we have today is that at one stage, the independent publishers was perhaps on the outside looking in, and today, that's no longer the case, at least in BISG's perspective. Very much a part of that big picture for the industry.

Tell us about that. You gave me some statistics when we chatted briefly before this call and they're really revealing.

HEALY: I think they are, both in terms of the volume and value of books sold in this country, but also the sheer long tail phenomenon of our industry, as well.

In 2006, we estimated the total size of the book industry in the United States, both large and small publishers, to be about \$36 billion in that year, and it's staggering to note – for those who don't realize these things – that the smaller publishers – mainly those with income of \$50 million or less – accounts for nearly one third of that figure.

KENNEALLY: So about \$11 billion or \$12 billion.

HEALY: That's right.

KENNEALLY: That's a lot of little raindrops.

HEALY: Absolutely. And if you look at the number of books in print in this country currently, our latest estimate is that there are about five million different books in print in this country. The top 10 publishers, the 10 largest publishers, account for nearly a million of those. So they have something like 20% of all the books in print.

When you look further down into the small publisher sector and start to look at those publishers who have five or fewer books in print at the moment, it's an enormous community. It's probably something like 80,000 publishers. And although they account for a very small number of total proportion of books in print, they are accounting for about a third of the sales, as far as we can tell.

KENNEALLY: That's right. So a third of that third, so about \$3 billion, is that correct? Do I have that right?

HEALY: Yes, that's right.

KENNEALLY: Right. So even the self-publishers – and I know there are some on this call today – together amount to a \$3 billion industry, and that's really, I think, far more than I would have said if I'd been asked.

The interesting aspect to me of your research was the sales piece, that these many publishers that are not necessarily only publishers, they're doing other things as well, so in a sense, they're nontraditional in that way. They use nontraditional sales channels and interestingly, are not even limited to domestic sales channels. Tell us briefly about that.

HEALY: That's right. They have an extraordinarily diverse profile. They may not even categorize themselves as principally publishers. They may be running galleries or small museums and so on, and publishing is a relatively –

KENNEALLY: Or running educational programs or something.

HEALY: Precisely. They could be small trade associations like ours and so on. And so it's a remarkably diverse community, as I'm sure Scott would confirm. And as I say, they don't necessarily classify themselves as principally being publishers, but they are succeeding quite dramatically in finding nontraditional outlets for their books and indeed, if the census statistics and the government statistics are to be believed, are contributing significantly too to export sales, as well.

KENNEALLY: I think it's been noticed certainly that the US is a contributor to the world's intellectual property capital in ways that are obvious, movies and music and so forth. But it's also true of books and I think, again, that's kind of heartening at a moment when one wonders about the future of reading and the future of something like the good old fashioned book. The world is still very much calling for this material and that would be in the developed countries of Europe, but also in the developing world, too, I would imagine.

HEALY: I think that's absolutely right, yes.

KENNEALLY: Michael, thank you very much, and I'll just mention to the audience that the report is published annually by BISG – *Book Industry Trends*. The latest edition, the 2008 edition, as Michael mentioned, will be published on June 16 and *Beyond the Book* will release that day a podcast interview with Michael and the co-author of the book, Professor Albert Greco, who is a professor of marketing at Fordham University's graduate school of business administration. Michael and Professor Greco will tell us about their most recent findings, so I do hope you will join us for that.

Finally, I want to bring in Dru Zuretti. Dru, welcome again.

ZURETTI: Thank you.

KENNEALLY: As I mentioned at the top of the program, Dru travels the US. Not yet traveling the world, but who knows. One of these days, right? But travels the US to make educational program visits on campus and for businesses as part of fulfilling the mission of Copyright Clearance Center, which is to promote the value of intellectual property.

One imagines at a moment when copyright is on the lips of everybody these days, not just publishers, that this keeps you pretty busy, Dru.

ZURETTI: It definitely keeps me busy. As a matter of fact, this week I'm returning from three straight weeks on the road having traveled to Chicago and then Palm Beach, Florida, and then last week I was in Philadelphia. This is in fulfilling our educational services mission, which is to create and promote copyright learning resources, not just for customers of Copyright Clearance Center, but also for our rights holders who need to know information about copyright and what's happening in the current arena and employees of major corporations.

And in trying to fulfill that mission, we have in the past year alone launched some new programs. The regional workshops have been located where – the recent round of them in those areas that I mentioned. We also did some other workshops in the Boston area earlier on in the fiscal year, and we're now planning for our upcoming fiscal year, so we're going to be expanding those regional academic workshops that are focused on our academic audiences.

A lot of the customers and the audiences in those workshops are authors. Certainly Chris and I have spoken to academic authors in the past as well. We're launching a webinar series for that particular group and we also do customized workshops, so should there be a group who wants to have us come on campus, we can do that and work with them to address their specific areas of interest.

KENNEALLY: Right. And I think it's important to tell this audience about this work, Dru, because particularly for the smaller players, the independent publishers and others, they've got their hands full creating the work, getting it out into the world, and they don't have – many often don't have the resources to ensure that the work is re-used or permissioned in the proper ways. And they certainly don't have the time or resources to try to let their audiences know that a respect for copyright and a respect for intellectual property is critical in this whole process and in fact is what drives the kind of economic growth that Michael was just talking about.

So I think it's important for people to hear this message that there really is someone out there trying to promote their work in a way that is not just about the business piece of it, but fundamentally about the principle involved here, because the US Constitution enshrines copyright. It makes it all possible. But there's really a principle here kind of like freedom of speech. You have to respect it first. Even if there's a law that backs it all up, it only works in an atmosphere of civility and respect and an understanding of why this is important.

One thing that I know your group is working on, Dru, as well is educating publishers about copyright. It's funny. It's almost like saying to the farmer with the dairy, did you know that milk comes from cows. But there are many publishers who again, even in the larger piece of the industry, who have got a lot on their hands to just get the books out and get them to the market where they want. They don't understand often the implications of the contracts they're signing with authors, of the importance and the potential of permissions and so forth.

So with all that in mind, we do hope everybody involved on this call today and your members throughout SPAN, Scott, can come to copyright.com or to beyondthebook.com for the kind of information, a kind of information one-stop shop, to help them better understand any questions or concerns they have about copyright.

And indeed, we'll go to questions from the audience in just a minute, and it wouldn't surprise me if there's one or two questions about copyright. Dru, as we have seen when we have chatted to audiences in the past, just about everybody has got some kind of a question about copyright.

And indeed, we already had one that I think is well worth sharing with people, and that is about this rather thorny area called fair use. While we talk about respect for copyright, this doesn't mean to anyone that copyright is some kind of very restrictive law. There is something called fair use which allows the use of materials in certain places under certain circumstances.

You could probably spend an hour talking about fair use itself, but we had a question about newspaper headlines and quoting those and quoting musical lyrics. Tell us a bit about fair use that would be helpful as a thumbnail for our audience.

ZURETTI: As you can imagine, when the topic of fair use comes up in a lot of my workshops, it's usually a very lively discussion. It's simply because fair use is very complex. It's obvious that we need to have some concept that allows certain types of use of copyrighted content for which you may not need to obtain permission.

The most often-asked question is people want me to give them a percentage or a number of words that will give them a rule of thumb about how much of something is OK to use and would fall under fair use, and of course that's a very difficult thing that the law does not give percentages or number of words that would make you feel comfortable that this particular use is a fair use. There's a lot that goes into making a determination and forming an analysis of whether or not your use is fair.

Certainly when you are quoting someone else's work in a to-be-published work, they want to obtain permission. If you were being quoted, you would probably want to be sure that you had some control over where your works were being quoted and republished and would like it if you received permission.

So that being said, it's very difficult to make a determination about what actually might be a fair use. A headline could be. Maybe it's not. A few words may be a fair use, but there's certainly been cases where a very small part of a work has been published in another work and was determined to be not a fair use.

KENNEALLY: There's actually a rather famous case – or infamous, depending how you look at it – involving very few words but some very important words in Gerald Ford's memoir. Can you tell us briefly about that?

ZURETTI: Yes, that is true. A certain few hundred words of Gerald Ford's memoir were published prior to the publication of the actual book, and where that was published, the publisher was sued. And it was determined that just those few

hundred words were not a fair use in the courts because what was published was considered to be the heart of the work or what was the most important part of the work, which in Gerald Ford's case was his reasoning behind the pardoning of Richard Nixon.

That's a very famous fair use case where just a tiny amount of the whole work was quoted and attributed and it was determined that that was not OK.

KENNEALLY: And it was not OK because it had an impact on the commercial viability of his entire memoir, which might have gone on for – I don't know exactly, but 600 or 700 pages. So the people who were going to be buying the book to hear what was going through his head when he pardoned President Nixon, if they could read that in *The Nation* magazine and paid 50 cents for that, they didn't have to pay the \$16.95 or whatever it then was in 1976 or something to learn from the book itself.

So the publication in *The Nation* of that section from the book was determined by the courts to have an adverse commercial effect on the entire memoir.

ZURETTI: There are actually four factors in any fair use case that would need to be. It's a long conversation but all of the factors are weighed equally when a decision is being made, and the only time you can be sure if your use is fair is if the judge decides in your favor. So it's a difficult analysis to come up with and be 100% accurate, and certainly not one that I would provide any kind of advice on should someone come to me and ask me is this particular use a fair use.

So as you can see, a lot of back and forth about many aspects of the law. It can be a fun conversation whether it's a large publisher or small publisher, an individual author or someone who is self-publishing works.

KENNEALLY: I hope that helps to connect some dots here for this audience. Just to review, the Copyright Clearance Center is recognizing the growing importance of this segment and wants to reach out to them and be sure to serve them in ways that are going to complement the things that they're doing in the marketplace and to reinforce their growing influence in the book publishing marketplace.

This is not just a la-la call. As Michael Healy has pointed out, of that \$36 billion industry, one third is what we would call in the sort of smaller end, although small begins at \$50 million and works its way down. Still and all, \$3 billion of that \$36 billion is with self-published, independent authors even. So we really are talking, as I said, about a lot of little raindrops adding up to one very big barrel and contributing to one very big barrel.

Finally, the knowledge is that copyright is something that we continually need to educate the marketplace about and educate ourselves about, so I appreciate all of your comments there.

We can now go to some questions if there are any from our audience. Again, we appreciate your listening to this first half of the program. We now want to ask you to contribute if you've got something. You can do so in one of two ways. You can press star one and wait to be acknowledged by the operator and ask your question to any of the panelists, to Michael Healy, executive director of the Book Industry Study Group, to Dru Zuretti, who is Copyright Clearance Center's manager of copyright education, or to Scott Flora, the executive director of the Small Publishers Association of North America.

You could also, if you would prefer – and we know many people listen to these kinds of programs while they're at work at their desk. Maybe you're doing some filing or something like that. If you want to just e-mail that call and keep at your work, you can do so. E-mail me, Chris Kenneally, at beyondthebook@copyright.com.

Operator, you'll let us know if we have any questions.

OPERATOR: Certainly.

KENNEALLY: Michael, I just want to ask you something. With what you've been listening to the chat we just had with Dru about copyright and so forth, how would you say the management of rights is contributing to the growth of the industry right now? You look at the book publishing piece and the trade sales as well as in the professional and scholarly and college and so forth. But do you have any information at all or any sense of how the kind of secondary aspects of all of this is contributing to growth in the industry?

HEALY: It's extremely difficult, Chris, to get any figures in this area at all. We've tried over a long period of time to think of ways of collecting information on sales that accrue through secondary rights deals. And like everybody else that's tried, we've largely failed because it's organized so differently in each publishing house and it's very often a responsibility that is not a single person's responsibility in any house and it's spread through rights departments and so on.

So, no, it's very difficult indeed to shine any light whatsoever on that area and we certainly specifically exclude those – any figures of that kind from our publications.

KENNEALLY: Fair enough. But Scott, I know that you're going to be at Book Expo this year visiting various booths as well as participating in Publishing University with PMA. We'll be doing the same. Michael, you're going to be at BEA too, presenting some programs, I believe.

HEALY: Yes, indeed. I'm PMA University as well.

KENNEALLY: Terrific. I hope that people who are on the call, if you're going to be in Los Angeles that week – the last week in May – at any of those various programs, and I know AAP also has its annual meeting for the small and independent presses committee. So if you're participating in any of those programs and can take a moment to say hello to Scott or myself or to Michael, we'd certainly welcome you to do that.

I bring that up by way of saying that BEA is increasingly a publisher-to-publisher marketplace and certainly Frankfurt Book Fair has for many, many, many years been all about translation rights and foreign publications and so forth. So clearly what we're looking at here is an industry that goes well beyond getting the book into the bookstore. There are so many additional opportunities for sales in nontraditional and so forth that are out there that are contributing to the growth, and while it may be hard to track all of this, clearly it's an important piece of things.

FLORA: Chris, I have a question.

KENNEALLY: Sure. And this is Scott Flora, of course.

FLORA: I am Scott. And I'm interested in how the management of rights has changed with the digital world over the last 10 years, and also maybe a little bit of – I guess one question is, has the awareness of rights increased because of some of the issues, especially surrounding music?

KENNEALLY: I think that absolutely has to be true. Dru, you're out there talking with people who've come to you with their concerns, and I've seen it. I think the music industry's success or lack of success in digital rights licensing has gotten everybody's attention. Would you say that's true, Dru?

ZURETTI: Yes. And I think that with the digitization of all kinds of content, it's much more difficult for people to really wrap their heads around the copyright implications, so to have some facility for licensing digital content is more and more important and certainly is something that's on the forefront of most publishers' minds.

And the variety of content, whether it's a blog or a website or any other copyrightable content, and ways to manage the distribution of and possibly retaining some royalties from that kind of content is more and more at issue.

And certainly people want to learn more and are asking more questions about digitized content.

KENNEALLY: And it's a conundrum certainly. So much that is on the Web is free, either intentionally or unintentionally and so creating mechanisms that work successfully to license that work has been a challenge for people. The iTunes

model seems to be successful, at least to some extent. Certainly what the Sony Book Reader and some other e-book readers like the Kindle from Amazon, Promise is a way to get material out in a licensable fashion. Copyright Clearance Center, for very special uses, offers opportunities for publishers of all sizes to license their work in the academic world, which has its own special challenges, because as Dru mentioned, fair use comes into play to some extent there, but the wholesale copying of books and making them available on intranets and in course management programs is not a lawful use of work.

I know that what Michael's research has found is that, again, while it's not surprising that the independent publishers sell a great many books to the trade, to the book trade, the nonfiction book trade, that as well – and Michael feel free to chime in here – the significant numbers of sales in college textbooks, in professional publishing.

HEALY: Yes, that's right. If you were to look at the annual publication that we produce, we – as you said in your intro, Chris, some time ago – we cover all these major categories, professional, religious, university presses, the mass market titles, elhi books and so on. And unit sales and dollar sales, both estimates and projections for future years, are included in the publication we were talking about a little earlier.

KENNEALLY: So just to tie it back to the licensing piece that Scott was bringing up, there are ways to license all these various works. Copyright Clearance Center offers some solutions in the academic world and even in the corporate world. SPAN members will be hearing about those opportunities from Scott and can look into all of that at copyright.com.

But I would imagine as well that this kind of draws attention to contracts and the work that the publishers are doing in making sure that when they acquire the rights to publish something, that they acquire the rights that they really want and that they can see ahead. And that's probably making life a little more confusing than ever.

Fifteen, 20 years ago, which is quite a long time ago, you would be concerned really only about the book itself and wanting to get the publishing rights for the book. But now when you have audio rights and electronic rights of various kinds, there's just so much more to be concerned about and the contracts get so much more complex, and the questions themselves do get much more complex.

Scott, do people come to you with some of these kinds of questions?

FLORA: They do come to us with questions. We work to put every few months an article about legal issues and copyrights in our newsletter. When they call us, we do our best to give sort of general information and always finish our conversation saying we're not lawyers, that you should consult your lawyer.

I do have a question, Chris. You were talking about licensing to colleges and the work that Copyright Clearance Center does, and I'm wondering if you could tell me and our audience the process. Let's say one of the publishers out there has an architecture book and an architecture class at the University of Colorado wants to use information out of that book and our publisher has an agreement with the Copyright Clearance Center. How does that work for the class to be able to license that information?

KENNEALLY: This is why Dru Zuretti is out there on a regular basis trying to educate people and why we do some of the programs we do. It's because it is a voluntary system and other countries around the world, some of this happens in a statutory licensing way. Michael, in the UK, for example, there are some licensing schemes that allow for works to be reused in universities and other schools. You may know about those.

But for this country, if you're Professor Healy or Professor Flora or Professor Kenneally, you have to know to come to Copyright Clearance Center or directly to the publisher as well, I suppose, and then request permission for that under the various programs.

We have an electronic and a paper course pack program that are a part of our academic permission services, APS, that we offer people, so if the publisher or the individual author, for that matter, lists their work with us, it gets into our catalog and so when Professor Kenneally comes in with his course pack and wants to use a chapter from someone's book or an article from this journal or whatever it is, it becomes a kind of one-stop shop for them. The prices are set by the publishers, and they would get the permission and know that they were within the law and not infringing and feel confident that way.

There are cases right now in court where several institutions – universities and others – are being sued for infringement by publishers. So this is something that is coming to attention. It's not just the music industry suing people on campus. Publishers also are concerned that their works may be infringed upon as well.

ZURETTI: And Chris, I also wanted to mention that we have now a repertory style license for academic institutions so that an entire repertory of works can be licensed on an annual basis, so that case-by-case, one at a time type of requesting permission is not necessary for that listing of publishers' work. There are close to a million titles that are included in that, and the institution pays one time a year and covers all the types of use. Typically, content would be used in a teaching electronic course packs, etc. environment.

KENNEALLY: We'll be through SPAN letting SPAN members know much more about our programs and we certainly invite people to look into them and to list the works with Copyright Clearance Center. And over time, we'll be doing some

more of these programs to try to answer some of the questions about copyright, to help people understand better just the extended business of publishing and wherever possible, to kind of connect that with copyright law and regulations.

OPERATOR: And we do have a couple questions on the phone. Our first question comes from Richard Ide with Button Top Books. Your line is open.

KENNEALLY: Richard, welcome to *Beyond the Book*. How are you?

IDE: Thank you. I have a question on a cover. I have an original art cover that was done by three different artists, and to my knowledge, none of them have copyrighted their work and none of them asked for a copyright. Do I automatically own the copyright to their work because I've copyrighted the manuscript?

ZURETTI: That's a great question. In the United States, a work does not need to be registered in order for the creator of that work to own the rights to it. So even though those artistic works may not have been registered with the US Copyright Office, the three individual artists do own the rights for their lives plus 70 years. So it would be necessary to get permission to use those works of art if you were going to republish that in another work.

KENNEALLY: Now, did you commission that artwork for the cover?

IDE: Yes, I did.

ZURETTI: There you go. That opens another whole bag of worms.

KENNEALLY: My hope would be that you've got a contract with those artists with regard to the use of that work in that particular instance.

IDE: Only a verbal contract.

KENNEALLY: Well, clearly, they wanted their work to be there. They know their work is there. You probably sent them copies of it. But you might want to at least outline verbally – in a written fashion, excuse me – what you've understood verbally that you're using the work for that limited purpose on the cover and that if you want to use it for additional uses, you might want to outline what those might be in the future.

And if you haven't got that sort of thing, it might be wise to do so because in the unlikely event that one of them passes away, their heirs may think that they want to use it for something else and you certainly want to be protected. You don't want to have that book have to be removed from the marketplace because of something like that.

Operator, you said there was another question?

OPERATOR: There is. Ron Duncan Hart with Gaon Books, your line is open.

KENNEALLY: Ron, tell us briefly about your company and what kind of books you publish.

HART: Yes. We're a small publisher. This year, we're passing 10 titles so we're kind of in that range.

KENNEALLY: In any particular category?

HART: Yes. We're looking at scholarly books, we looking at some in women's studies and particularly at women's voices, Jewish women's voices and areas like that. Nonfiction primarily.

KENNEALLY: Great. What's your question, please?

HART: Even though we enter the copyright with the regular process, the Library of Congress, that sort of thing, what other things might need to be done through the Copyright Clearance Center in terms of protecting titles or information or artworks, I think of ?

KENNEALLY: With regard to the titles, the protection is in this fashion, that by listing the works with us, when – and again, we were discussing the scenario of a professor pulling together a course pack who might be a professor in a women's studies program, and he or she would want to include a chapter from one of those books. Possibly it's a memoir or something like that. They would come to us or go online and look through our catalog to find your works, to learn what the price would be for the reuse and to then place the order through us, either again, online or directly with us.

So in that regard, that's the kind of protection. Your first protection though absolutely is to register the copyright.

Dru mentioned that any work created automatically has a copyright attached to it, so this is true of everything but an idea. You cannot copyright an idea. But once you put that idea down in a fixed form – if you write it on a napkin or publish a book – that is copyrighted.

But registering the work with the US Copyright Office, which is online at copyright.gov, and I know we've had a couple of e-mails asking about this process. Really, the best place I would suggest you go is to the source itself, copyright.gov. We are copyright.com and sometimes there is some confusion. We are not a government agency and we do not register the work. Listing the work with us is not the equivalent of registration.

But the fact of registration really protects you in court. It allows for statutory damages and I think strengthens any case that you may want to bring for infringement. So you're doing about, I would say, 90% of the work, Ron, by registering the work with the Copyright Office. And that's global protection.

But here in the US, the supplementary work that can be done through copyright.com and Copyright Clearance Center is to make it possible for people to use the work in these various forms in such a way as to signal their intention not to infringe and to pay you in a reasonable fashion.

Does that help?

HART: Great. Yes.

KENNEALLY: OK, Ron. Good luck with your work.

Operator, do we have any more questions on the line?

OPERATOR: We do not have any further questions.

KENNEALLY: We are coming up to just before 3:00 here on the East Coast and it's about time to wrap things up here. We will be happy over the course of the next several days or whatever time to answer any questions by e-mail. If you want to send those questions to me, please do so. It's beyondthebook@copyright.com. You can e-mail me directly, Chris Kenneally. It would be chrisk@copyright.com.

I've enjoyed having on the call with me Michael Healy, the executive director of the Book Industry Study Group. Michael, your website is, I believe, bisg.org.

HEALY: That's correct.

KENNEALLY: We certainly urge the publishers on the line here to consider membership there and to certainly watch for some of the important reports you do. As we mentioned, you will be publishing the book, *Industry Trends*, the annual survey of the industry and a look ahead as well. That's important to mention, a look ahead to the future, as much as it's possible to look into the future. That will be coming out on June 16, and we will be doing a special podcast with Michael and Professor Greco who is his coauthor for that survey, so please do look for that. Michael, again, thank you very much for joining us.

Scott Flora is the executive director of SPAN. SPAN and Copyright Clearance Center will be telling you more in coming weeks about a way to license your work for the various reuses that are possible with Copyright Clearance Center services. We hope you'll watch your e-mail inbox for that. Scott out there in Colorado Springs, thank you for working with us and for joining us on this call.

FLORA: Chris, on behalf of myself and the SPAN members, thank you very much for this wonderful presentation.

KENNEALLY: And Dru, I appreciate your contributions as well and for taking some of these questions. Of course, what we're trying to do is help to guide people. We're not providing legal advice or anything like that, but I think some of the basic questions are relatively easy to answer.

We do have some FAQs in the follow up that we're going to send everybody who's registered for the call. We're going to send them a URL from Stanford University that outlines some important principles of fair use, Dru?

ZURETTI: Yes. It's a simple listing of some fair use cases and their outcomes. I find it interesting reading myself. I guess I'm a little bit of a copyright geek.

KENNEALLY: Well, that's understandable here at Copyright Clearance Center. But we will do that. We will send you a couple of URLs as well to some frequently asked questions and answers on our site, so please do look for that in your e-mail box, too.

And again, on behalf of everyone at Copyright Clearance Center, thank you very much indeed for joining us. We look forward to speaking to you all again in the very near future. My name's Chris Kenneally. Have a great day.

END OF CALL