

# SCIENCE

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# LETTERS

## Copying Articles

Letters by Thomas V. Higgins and Christian Peter Klingenberg (6 Jan., p. 13) criticize the AAAS involvement in the Texaco copyright case. Higgins and Klingenberg appear to have obtained their information on this case from Andrew Lawler's News & Comment article "Court says no to copying articles" (25 Nov., p. 1315).

However, the News & Comment article did not give all the facts of the case. Texaco as a company had a policy of allowing its research scientists to make copies of scientific articles, not in isolated cases, but as a systematic practice in order to avoid purchasing multiple subscriptions to journals such as *Science*. The parties in the case stipulated, in order to reduce the trial costs, that only the acts of one particular researcher, Donald Chickering, would be tried. Chickering was not singled out as an individual, he was just chosen to be representative of Texaco's practices.

The court ruled that Texaco's practices were clearly not justifiable under the fair use doctrine because Texaco systematically deprived authors and publishers of royalties. Royalties for copies of articles can be conveniently paid to the Copyright Clearance Center (CCC), and the court noted that Exxon and Mobile Oil had both done so, unlike Texaco.

While Higgins is correct that fair use might allow a researcher to make a single copy, this was not the issue in the Texaco case. Klingenberg stresses that researchers should be allowed to make articles for personal use under the fair use doctrine. But Chickering was making copies for commercial use, that is, for his work at Texaco. I would not consider this personal use, and I don't understand why authors and publishers should subsidize commercial companies such as Texaco by foregoing the already small revenue stream generated by copyrights.

Laws in most European countries are more explicit than U.S. laws regarding fair use. For example, in Switzerland, copies made for personal use are not subject to royalties; but copies made for use within an organization are subject to royalties, and those royalties must be paid through an organization similar to the CCC.

I submit that any person or organization who depends on copyright revenues for their survival and knows the facts of the Texaco case will support the court's

decision. Also, I agree with the AAAS position and support the Association's decision to participate in this case. By doing so the AAAS defended my interests as an author, and also as a reader of *Science*: If unlimited copying of articles were allowed, fewer copies of *Science* would be sold, and the price per copy would increase.

**Richard Hill**

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When he was on the editorial board of *Heredity*, Terry Crawford persuaded his colleagues, the Genetical Society (the owners), and the publishers to include a statement inside the front cover of the journal that now reads

Authorization to photocopy items for internal or personal use, or internal or personal use of specific clients, is granted by The Genetical Society of Great Britain.

This sentence is followed by a number of caveats about library copying, advertising, and creating collective works for resale. Not only does this sentence allow individuals to make copies for their own purposes, but it also allows teachers to make copies for class teaching and research groups to make copies for the individuals in each group.

As the whole purpose of publishing is to make data, ideas, and interpretations widely available, what better advertisement is there for a journal than to allow the next generation of teachers and researchers ready access to research articles? Banks realized this advertising gimmick a long time ago, frequently charging nothing for servicing students' accounts. It cannot be argued that sales of journals would decline because, other than society journals that come with society membership, the great majority of young people cannot afford the journals anyway.

I commend the precedent of the Genetical Society to all societies, editorial boards, and publishers of scientific journals. It would remove much frustration, the need for watchdogs, and, presumably, even thoughts of litigation.

**David A. Jones**

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