

WIPO-APA-IPA/CR/CAI/07/1

ORIGINAL: English

DATE: January 2007



ARAB REPUBLIC OF EGYPT

WORLD INTELLECTUAL
PROPERTY ORGANIZATION

**UNDER THE PATRONAGE OF
HER EXCELLENCY MRS. SUZANNE MUBARAK
FIRST LADY OF THE ARAB REPUBLIC OF EGYPT**

**WIPO/APA/IPA INTERNATIONAL CONFERENCE ON COPYRIGHT
AND DEVELOPMENT: FROM CULTURAL DIVERSITY
TO SOCIAL PROSPERITY**

organized by
the World Intellectual Property Organization (WIPO)

in cooperation with
the Ministry of Culture

in association with
the International Publishers Association (IPA)

and
the Arab Publishers Association (APA)

Cairo, January 27 and 28, 2007

The Cairo International Convention and Exhibition Center: Mycerinos Hall

COPYRIGHT AND EDUCATION: A PUBLISHER'S PERSPECTIVE*

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* The views and opinions expressed in this paper are those of the author and not necessarily those of the World Intellectual Property Organization (WIPO) or its Member States.

The theme of this panel session is copyright and education and my view is that of a multinational publisher in the educational and academic sector. Our aim is to invest in developing high quality books and other educational materials for the schools sector, in the UK domestic market but also through our overseas branches for a wide range of curricula in markets as diverse as the United States, the Caribbean, the Middle East, Africa and Asian markets such as India, Singapore and Hong Kong. Many of our books are produced in the English language, but we also publish in other languages such as Spanish and Italian for those markets. Projects for schools may consist of a single book or a multi-level project, often involving considerable investment to bring together the best writers and pedagogical methods with appropriate accompanying visual content, and increasingly we are looking at developing interactive materials for the classroom. We also publish university level textbooks in English and in a variety of other languages, either as translations of English publications or original books in the local language.

What are the copyright issues for educational and academic publishers? Certainly piracy can have a major and devastating impact in many of the markets which we seek to serve. Whilst piracy of high-profile mass-market titles such as J.K. Rowling's *Harry Potter* titles may make headlines in the trade and general media, the effects of full scale commercial piracy, unauthorized editions and compulsory licensing all affect our sector significantly and are far less dependent on the whims of the market.

For Anglophone publishers, there is a steady trade in pirated and unauthorized editions of academic textbooks and journals, and also in English language teaching materials and dictionaries. All of these categories of publication also suffer from unauthorized photocopying, and more recently from scanning, both of complete publications or parts of publications, often undertaken by campus bookshops on a large scale. This is certainly a problem here in Egypt and indeed elsewhere in the region, and it has a major impact on the interests of legitimate licensees here. Of course, this is not only a problem for Anglophone publishers – local publishers suffer from piracy and unauthorized photocopying, particularly in some countries of Latin America and the problem has also proved catastrophic for domestic publishers in many of the countries of central and eastern Europe and the former Soviet Union and, more recently, China. This takes place not only in countries which are absent from membership of the international copyright conventions but in countries which have long been members of the Berne Convention, as Egypt has for thirty years. IFRRO continues to lobby for and assist with the establishment of effective Reproduction Rights Organizations worldwide.

One of the most significant factors in this erosion of intellectual property rights in the educational and academic sector is that the prime targets are almost always those publications which have become well-established in the markets concerned through investment and effort by the original publisher, or in some cases by their authorized local licensees. In the case of textbooks, it is those which have been established

through the publication of many successive editions; in the case of academic journals, those with high-profile branding and a tradition of publishing only the best peer-reviewed research material. It is comparatively rare to experience piracy or wide-scale photocopying of an educational or academic book newly launched on the market for the first time. At any one time, my own company may be involved in either individual or joint legal action (often undertaken by the British Publishers Association together with the American Association of Publishers) against piracy in countries as diverse as Turkey, India and China. The question of copyright compliance is vital if publishers in our sector are expected to continue to produce high quality materials.

What active measures can be taken to promote and defend the rights of authors and publishers whilst making our publications available at affordable prices to those who need them in the educational sector? Firstly, all of us in this area of publishing are acutely aware of the need to make our publications accessible in markets where many readers may not be able to afford to purchase the original edition. In the academic journals sector, this access has been facilitated by initiatives such as HINARI and AGORA, which have made hundreds of scientific journals available to users in developing countries either free of charge or for a nominal price.

In the textbook area, there have been a number of initiatives – the publication of international student editions by the original publisher at prices significantly lower than the edition produced for more affluent markets. In the United Kingdom, 1997 saw the end of the government-subsidized ELBS program, which for many years made it possible for publishers to produce special low-price editions of key textbooks in areas such as medicine and agriculture for designated developing countries. Since the demise of ELBS, British publishers have established the BookPower scheme and discussions are now in hand for a new scheme under the name of Access for sub-Saharan African countries. Schemes of this kind do of course raise the issue of the use of textbooks from developed countries rather than original, locally produced texts.

Many Anglophone academic publishers have also established large-scale local textbook reprint programs in markets such as Egypt, India, the Philippines and (more recently) China. There are also possibilities for printing low-price copies locally in India via the Export Processing Zone. Despite these initiatives and the fact that most publishers require licensees to print clear market restriction notices on the local editions, these books often turn up in a range of diverse markets not authorized under the license – for example, Indian reprint editions can be found in markets as diverse as East Africa, Malaysia, Russia, the Caucasus and indeed offered for sale to students via web-sites in the United States without any indication of the source of the books. Most such “leakage” is facilitated not by the authorized licensee but by middle men – yet we continue to grant the licenses on the grounds that the authorized users in the licensed markets need them.

Publishers and authors receive a lower financial return from all these initiatives, but we pursue them nevertheless in order to make our publications available at prices appropriate to the markets concerned and also with the aim of deterring piracy and compulsory licensing.

The implications of compulsory licensing have undoubtedly had a considerable impact on the educational and academic sector. The 1971 Paris Revisions to the Berne Convention and the Universal Copyright Convention made provision for the acquisition of compulsory licenses for both translation and same-language reprint rights for countries officially recognized as having developing country status, subject to applicants for such licenses following very specific procedures in terms of seeking to locate the rights holder and first attempting to negotiate a voluntary license arrangement; technically a compulsory license can only proceed if the rights-holder cannot be located or if a license is refused without a valid reason. There has been much misunderstanding of the Paris Revisions, with many publishers in developing countries interpreting the wording to mean that rights can be acquired free of charge or on the basis of a concessionary royalty rate, rather than on terms equivalent to those which would prevail for a freely negotiated license.

In practice, it is perhaps arguable whether many compulsory licenses have been granted directly under the terms of the Paris Revisions – it is rather that publishers who are aware of the provisions have tried instead to service the markets concerned through voluntary licensing. Perhaps of more concern has been our experience with countries such as the Philippines and Pakistan – both members of the Berne Convention – but which have operated under domestic copyright legislation in order to acquire compulsory licenses, in particular of English language student texts.

My final area of concern is the recent move in discussions with the World Intellectual Property Organization under the banner of the Argentina-Brazil initiative, which seeks to argue that the copyright regime favors the developed nations and impedes access to educational and academic materials by the developing countries. I hope that the initiatives I have outlined earlier emphasize the fact that our sector of publishing fully recognizes this need, and has taken a range of steps to facilitate access to our materials by these readers, but with the expectation that the rights of authors would be respected.

I would also argue strongly that without the protection of intellectual property rights, we would soon face a situation where we would be unable to continue identifying, developing and investing in bringing the works of the very best educational and academic authors to markets worldwide. I speak from the point of view of a large multinational publisher, but equally important are the rights of domestic authors and publishers in the very countries who need educational and academic materials; their future would also be severely jeopardized without the framework of intellectual property protection.

I would conclude by saying that copyright remains the vital underpinning element which enables publishers in both the developed and the developing nations to continue to work with authors and to invest in bringing the best quality works we can produce to the markets which need them at prices which they can afford. To dispense with copyright protection in favor of total open access will be of little benefit to authors, producers or users.