View from North America

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Greetings, Everyone, from the Unrepentant Former Colonies. Here is a roundup of serials related news since my last column was written in February:

Intellectual property issues

On March 28, the United States Supreme Court heard oral arguments in *Tasini v The New York Times Company*.

This landmark suit will have a major impact on libraries, publishers, and authors in the United States, no matter which way the Court rules. At issue is whether or not publishers have the right to include freelance author's works in electronic database products, without paying additional royalties. Publishers maintain that database publishing of freelance articles does not violate freelancers' copyright; Jonathan Tasini, a writer who brought the suit, maintains that an electronic version of the article constitutes a "revision" under copyright law and, therefore, additional royalties are required.

Those interested in fuller reviews of this case and its implications can find them in Against the Grain, April 2001, and at http://www.infoto-day.com/newsbreaks/nb010330-1.htm, which has links to detailed discussions of the case. The American Library Association has filed an amicus curiae brief with the court in favor of Tasini. There is a link to the full brief at http://www.ala.org/washoff/.

As of this writing, the Court had not issued a ruling. If the Court upholds the Second Circuit's reversal of the original District Court judgment, which was in favor of Tasini, freelance writers may miss out on opportunities to receive remuneration when their works appear in databases (at least retrospectively). If the Court rules in favor of Tasini, this may impact whether publishers choose to include freelance material in their databases and (especially) database pricing.

Company, technology, and product news

Some major acquisitions occurred in the past four months.

On May 24, **RoweCom** (http://www.rowe.com) signed a letter of intent agreeing to be acquired by **divine, inc.**, (http://www.divine.com), a Chicago-based Internet holding company, in a stock-for-stock exchange valued at about US$19 million. The deal, which is expected to be completed by mid-June, requires shareholder and regulatory approval.

divine describes itself (quoting from the Web page), thus: "Founded in 1999, Chicago-based divine is a leader in promoting the development of new technologies, products, and services that dramatically change how businesses manage information, engage their constituents, and develop new market opportunities."

Earlier, on April 6, Netherlands-based **Wolters Kluwer** acquired **SilverPlatter**, Inc, the Norwood, Massachusetts-based database provider and aggregator (http://www.silverplatter.com), for approximately $US70 million. At the same time Kluwer announced that it would merge

SilverPlatter with one of its other recent acquisitions, **OVID** (http://www.ovid.com), to advance, as the company put it, "Wolters Kluwer's strategy to expand its electronic offerings in the medical and scientific fields and integrate content with software and services." SilverPlatter was privately held. Other terms were not disclosed.

On May 17, SIRSI Holdings, a major provider of integrated library systems, agreed to purchase DRA, another major ILS company in the United States. This was a cash deal worth about US$51 million. SIRSI offered $11 per share for DRA stock (NASDAQ, DRAI), an 86 percent premium over the closing price that day of US$5.91.

Readers interested in more information should go to http://www.libraryjournal.com/articles/infotech/news/20010528_18775.asp for an interview with Pat Sommers, the president of SIRSI, in which he discusses the acquisition and the company's future.

On March 30, **Endeavor Information Systems** announced commercial release of ENCompass, its digital library management system. Cornell University, the Getty Research Institute, and Kansas State University are the first three installation sites. According to Endeavor, "designed for unified access to the varied collections of any library, ENCompass empowers libraries to design master architectures of print, electronic and digital collections and provides users a single search across all formats with relevance ranked results sets." For more information, go to http://www.endinfosys.com/news/encompasscomm.htm.

Swets Blackwell announced an agreement with IBM to develop "web-based information management products and services". Swets Blackwell can now place orders "by linking out from their existing Ariba, SAP, or Commerce One e-procurement systems". This service, announced on April 2, will be available by July 1. For more information see http://www.swetsblackwell.com.

Electronic journals

On May 14, **Harvard University Library** and three major scholarly journal publishers "agreed to work together on a plan to develop an experimental archive for electronic journals". The publishers are: **Blackwell Publishing, John Wiley & Sons, Inc.**, and the **University of Chicago Press**. The group received $145,000 in Mellon Foundation funding to develop plans to meet the challenges of archiving. For more information, contact Dale Flecker, Associate Director for Planning and Systems, the Harvard University Library: 617/495-3274, dale_flecker@harvard.edu.

For an excellent overview of the problems of e-journal archiving, see Richard Wiggins's article in *LJDigital* at http://www.libraryjournal.com/digital_preservation.asp.

An intense discussion of the issue of aggregator embargoes has developed on the liblicense listserv. At issue is librarians' expressed concern over the practice of aggregators such as **EBSCO** signing agreements with publishers that:

- are exclusive, making the publisher's content unavailable in any other aggregation;

- embargo the e-content for some period of time following the publication of the print.

Sam Brooks of EBSCO has maintained that these agreements, such as EBSCO's agreement with the *Harvard Business Review* are natural and advantageous arrangements, and ultimately benefit libraries. Weighing in with contributions have been many librarians, some of whom have expressed concern over this practice, whether implemented by EBSCO or anybody else; and **ProQuest** (Bell & Howell Learning and Information), a competitor of EBSCO.

The debate is in my view an exceedingly important one that should be followed by most of the community. To read the positions of the contributors visit the liblicense archives at http://www.library.yale.edu/~llicense/ListArchives/0105/threads.html#00100 and follow the threads "EBSCO and ProQuest Database Content" and http://www.library.yale.edu/~llicense/ListArchives/0105/msg00104.html.

Ken Frazier, Director of Libraries, University of Wisconsin-Madison and Chair of **SPARC** (the Scholarly Publishing and Academic Resources Coalition), published a controversial article in the March issue of D-Lib magazine (http://www.dlib.org/dlib/march01/03contents.html). Frazier called into question whether it is in the long-term interests of libraries to sign on to aggregated collections of e-journals offered by publishers (for example, Elsevier's ScienceDirect and Academic Press's IDEAL).

Frazier entitled his article "The Librarians' Dilemma: Contemplating the Costs of the "Big Deal", and used the "Prisoner's Dilemma" (a problem in Game Theory originally developed by John von Neumann) to make the argument that " the push to build an all-electronic collection can't be undertaken at the risk of: (1) weakening that collection with journals we neither need nor want, and (2) increasing our dependence on publishers who have already shown their determination to monopolize the information marketplace."

Frazier's article drew immediate dissent from Tom Sanville of **OhioLINK** and others, who pointed out that the availability of these collections and their provision to large numbers of libraries in consortia had been, in his view, highly cost-effective.

The exchanges between Sanville and Frazier can be found in the April issue of D-Lib.

Association and community news

NASIG (North American Serials Interest Group) held its annual elections this Spring .

The new board members are:

Vice President /President-Elect

Eleanor I. Cook, Serials Specialist & Interim Coordinator, Materials Processing, Appalachian State University

Treasurer

Denise D. Novak, Head of Acquisitions, Carnegie Mellon University

Members-at-large

Marilyn Geller, Information Management Consultant
Mary Page, Head, Collection Services and Serials Management, Rutgers University
Kevin M. Randall, Head of Serials Cataloging, Northwestern University

My long time friend, colleague and manager, Dan Tonkery, left RoweCom in February to join EBSCO as Director of Development. The press release covering Dan's new responsibilities is at http://www.EBSCO.com.

If I may be permitted to add a personal note: In April I signed on as Vice President, Sales, for TDNet, Inc., which is the US arm of TDNet (http://www.tdnet.com), an Israeli-based company that offers e-journal management solutions for libraries. I report to Michael Markwith, who is President of TDNet, Inc. and well known within the community, for, among other reasons, being the previous author of this column. TDNet is represented in the UK by Everett's.

My job no longer encompasses competitive intelligence, but I'll continue to try my best to keep our readers as up to date as I can regarding crucial issues on this side of the Water.

Readers whose careers pre-date the advent of the computer, and feel nostalgic for those times, may wish to consult "The Ditto Machine", in Against the Grain, V. 13, n. 2, April, 2001, p. 46, contributed by Your Humble Servant. With luck, after reading it, your nostalgia will disappear faster than a government budget surplus.