

aap MONTHLY REPORT

A News bulletin for Members of The Association of American Publishers
 ISSN07488-8173
 Vol. XXII No.

4

WHAT'S NEWS

PUBLISHERS CELEBRATE HOUSE VOTE ON FREEDOM TO READ FUNDING MEASURE

AAP joined in celebrating the June 15 vote cutting off funds for FBI searches of libraries and bookstores

Page 2

AAP ASKS FULL FUNDING FOR LIBRARY PROGRAMS

Expressing the publishing industry's support for America's libraries, AAP has asked Congress to fully fund federal library programs

Page 2

AAP WELCOMES SUPREME COURT RULING IN GROKSTER CASE

AAP welcomed the June 27 ruling as a move toward stronger copyright protection

Page 2

NEW WEBSITE LINKS AUTHORS AND LIBRARIES

On June 21 AAP announced the launch of *Authors@Your Library*, a new website to link publishers and librarians for author events

Page 3

AAP CO-PLAINTIFF IN NEW INTERNET CENSORSHIP CHALLENGE

AAP joined 13 co-plaintiffs in filing suit June 9 to challenge Utah's newly enacted Internet censorship statute

Page 4

MARYLAND CASE TESTS PUBLISHER'S RIGHT TO KEEP SUBSCRIBER LISTS CONFIDENTIAL

AAP has joined an *amicus* brief supporting a publisher's right to keep subscriber lists confidential

Page 4

AAP ANTI-PIRACY PROGRAM KEEPS THE PRESSURE ON IN ASIA

Spring raids, ongoing diplomatic efforts and educational initiatives mark AAP's overseas copyright protection program

Page 4

AAP PARTICIPATES IN GEORGIA COLLEGE TEXTBOOK ISSUES FORUMS

AAP took part in a series of discussions on college textbook pricing issues sponsored by the Georgia University System Board of Regents

Page 6

PSP JOURNALS BOOT CAMP TO BE HELD IN CHICAGO

The PSP Journals Committee will sponsor its ninth annual intensive journals publishing course September 14-17 in Chicago

Page 7

News From Washington	2	Anti-piracy	4
Copyright	2	Higher Education	6
Trade Publishing	3	Professional and Scholarly Publishing	7
Freedom to Read	3	Calendar	7

NEWS FROM WASHINGTON

Publishers Celebrate House Vote on “Freedom to Read” Funding Measure

AAP joined in celebrating a 238-187 vote in the House of Representatives on June 15 cutting off funds for FBI searches of bookstores and libraries under Section 215 of the USA PATRIOT Act.

The vote came on an amendment introduced by Rep. Bernard Sanders (I-VT) during consideration of the appropriations bill to fund the Justice, State and Commerce Departments, notwithstanding a threat from the White House to veto any measure that would “weaken the PATRIOT Act.” Almost a year ago the Administration fought off a similar amendment when the House Republican leadership held the vote open 20 minutes beyond its allotted time to persuade some members to change their vote. The amendment lost on a 210-210 tie (see *Monthly Report* July/Aug. 2004). However, threat of a White House veto did not stop passage of the amendment on June 15.

AAP has been working with booksellers, librarians and authors to restore civil liberties safeguards stripped away by Section 215 of the PATRIOT Act, which allows the FBI to seize business records, including library and bookstore records, with virtually no oversight by the federal courts. AAP joined with the American Booksellers As-

sociation, the American Library Association and PEN American Center in a “Campaign for Reader Privacy” to push for changes in Section 215 and to date the Campaign has collected and presented to Congress more than 200,000 signatures on petitions calling for reform.

Promising the publishing industry’s continued support in the fight to restore safeguards to Section 215, which is due to sunset at the end of this year, AAP President Pat Schroeder congratulated Congressman Sanders and other members of the House PATRIOT Act Reform Caucus—Democrats and Republicans—on the win. Mrs. Schroeder said she particularly liked the description of the winning coalition, *as* “the crazies on the left and the crazies on the right meeting in the middle,” which the *Washington Post* attributed to a staff member of one of the House Republican leaders. “Isn’t that what representative democracy is all about?” she asked.

AAP Asks Congress for Full Funding for Library Programs

Expressing the publishing industry’s support for America’s libraries, AAP sent letters to the Chairman and Ranking Member of the House Appropriations Subcommittee on Labor, Health, Human Services and Education urging full funding for the Library Services and Technology Act (LSTA) and the Improving Literacy Through School Libraries Program, in line with the President’s

budget request. In a letter of May 26 to Reps. Ralph Regula (R-OH), and David Obey (D-WI), AAP President Pat Schroeder asked the Subcommittee to approve \$221.3 million for LSTA and \$100 million for Improving Literacy. “Federal funding for these programs supports literacy and reading promotion activities at school, public and academic libraries nationwide,” Mrs. Schroeder said, noting that such funding is critical in “fostering public understanding of the unique value of books and other published materials in the cultural and political life of our nation.”

Notwithstanding the strong lobbying effort, the full House Appropriations Committee approved funding of \$212.65 for LSTA, which although it does not come up to the White House recommendation still represents a \$6.69 million increase over last year. More disappointing was the funding level approved for Improving Literacy Through School Libraries. Support for the program remained flat at \$19.6 million, despite estimates that \$100 million is needed to bring the program to every state.

Lobbying efforts are now being focused on the Senate.

COPYRIGHT

AAP Welcomes Supreme Court Ruling in Grokster Case

AAP welcomed the Supreme Court’s June 27 decision in the

Grokster case as a move toward greater copyright protection by allowing software distributors who facilitate copyright violations to be held culpable. AAP had joined an *amicus* brief asking the Supreme Court to take the case and to overturn a ruling by the 9th Circuit Court of Appeals that would have allowed providers of peer-to-peer file sharing services to avoid secondary liability for facilitating acts of copyright infringement simply by taking *no action* to eliminate or minimize the amount of online copyright infringement by users of their service (see *Monthly Report* Feb. 2005).

All nine justices agreed to vacate the 9th Circuit decision and to remand the case back to the district court for a more accurate application of the secondary liability standards that the Supreme Court had articulated in the *Betamax* case.

In a statement issued on June 27, AAP President Pat Schroeder said: “AAP applauds this important victory for copyright protection in the digital environment, based on the Supreme Court’s unanimous view that the 9th Circuit and, earlier, the district court for the Northern District of California, were wrong to support a grant of summary judgment to *Grokster* and *StreamCast* in the face of what the Court found to be ‘unmistakable’ evidence in the ‘words and deeds’ of the software distributors that ‘shows a purpose to cause and profit from third-party acts of copyright infringement.’”

The Court’s clarification of the evidentiary showing needed to demonstrate when the manufacturers or distributors of a product have “induced” copyright infringement should prove helpful to copyright owners in dealing with the capability for infringement that is inherent in peer-to-peer networks and other digital technologies.

TRADE PUBLISHING

New Website Will Bring Authors and Libraries Together

On June 21, AAP announced the launch of a unique new website, *Authors @ Your Library*, (www.AuthorsAtYourLibrary.org), which for the first time will link publishers and librarians to simplify the process of scheduling library events.

Authors @ Your Library is a free online matchmaking service for librarians who want to schedule successful author events, and for publishers who are seeking enthusiastic audiences for their authors. The user-friendly web site will require only a few minutes for librarians and publishers to enter pertinent information about their libraries and authors into the fully searchable online database. Librarians responsible for event planning will be able to search for authors by name, title, geographic location, tour schedules and other criteria. The database will provide complete publisher contact information, making it easier for librarians to schedule author events.

The site will enable publishers to quickly identify opportunities for author events presented by various libraries in different regions of the country, facilitating the process of scheduling author tours and increasing publicity for new titles.

The website was developed by AAP’s Trade Libraries Committee, which represents the major book publishing houses in the U.S. in partnership with organizations including the American Library Association, Friends of Libraries U.S.A (FOLUSA) and *Library Journal*. A web site team headed by Dr. William E. Moen at the Texas Center for Digital Knowledge, University of North Texas, is producing the database.

For additional information: Kathryn Blough, AAP New York (kblough@publishers.org).

FREEDOM TO READ

Supreme Court Refuses to Hear Journalists’ Contempt Appeal

On June 27 the U.S. Supreme Court declined to review the contempt orders imposed on *New York Times* reporter Judith Miller and *Time* magazine reporter Matt Cooper, who face jail for refusing to testify before a grand jury investigating the leak of the identity of CIA officer Valerie Plame. AAP had joined a coalition of media groups in asking the Supreme Court to hear the appeal, arguing that the ability of the press to protect confidential sources is essential to inform the

public on matters of vital concern and to protect against abuse of power by government officials. Citing a host of instances from the Pentagon Papers to the Enron scandal to the prison abuses at Abu Ghraib, the brief argued that the “information anonymous sources make available to the public through the press is vitally important to the operation of our democracy and the oversight of our most powerful institutions, both public and private.” The ruling of the D.C. Circuit Court of Appeals “plainly threatens this kind of journalism. The compelled disclosure of the sources that enabled the press to report these stories ‘undoubtedly would have a ripple effect, silencing whistleblower and other government employees who might otherwise cooperate with the press in exposing government wrongdoing.’”

AAP Joins in Challenging Utah Internet Law

Joining with 13 co-plaintiffs, AAP went into federal court in Salt Lake City on June 9 to challenge Utah’s newly enacted Internet harmful to minors statute. The statute requires the state attorney general to compile a “blacklist” of Internet sites that contain harmful to minors material. Internet service providers would then be required to block access to the sites and web site operators would be required to rate their sites and control minors’ access material that might be considered harmful to minors. ABFFE, the Freedom to Read Foundation and other members of Media Coalition are plaintiffs along with Internet service

providers and the ACLU of Utah. The King’s English, and independent bookstore in Salt Lake City is lead plaintiff. The complaint charges that the statute “imposes severe content-based restriction on the availability, display and dissemination of constitutionally protected speech on the Internet.”

Betsy Burton, owner of The King’s English, expressed concern that the store’s web site could run afoul of the law by promoting books such as Margaret Atwood’s novel *Oryx and Crake*, which has two female nude bodies on its cover.

AAP has been a plaintiff in successful challenges to similar statutes in Arizona, New Mexico, New York, South Carolina, Ohio and Vermont. The unconstitutionality of New Mexico’s statute was upheld by the U.S. Court of Appeals for the 10th Circuit, which would also have jurisdiction if this case reaches the appeal level.

Maryland Case Tests Publisher’s Right to Keep Subscriber Lists Confidential

AAP has joined an *amicus* brief in a case making its way through the Maryland courts, supporting the right of a journalist and publisher to keep confidential subscriber lists and source material, and the right to read and speak anonymously on the Internet.

The case, *Forensic Advisors v. Matrixx Initiatives*, involves a

publicly traded company that manufactures an over-the-counter nasal decongestant alleged to permanently damage the user’s sense of smell. In 2002 Matrixx filed a defamation and trade libel suit in Arizona seeking the identity of individuals who had posted anonymous comments critical of the company and its management on a number of Internet websites. In 2003 an electronic stock newsletter, the *Eyeshade Report*, carried a negative article about Matrixx. In an attempt to learn the identities of the posters, Matrixx subpoenaed the publisher of the newsletter, seeking discovery of his sources, notes, and the names of everyone who had received the negative report on the company. The publisher’s motion to quash was denied by a Maryland trial court and the case is now on appeal to the Maryland Court of Special Appeals.

The *amicus* brief, prepared by Public Citizen in cooperation with the Maryland ACLU, argues that Maryland’s shield law protects against compelled disclosure of sources and information used in newsgathering, and that the First Amendment protects the right to read anonymously.

ANTI-PIRACY

Update on AAP’s International Copyright Protection Program

Following an extraordinarily busy fall and winter highlighted by successful raids in Taiwan, Malaysia and Hong Kong and extensive contacts with U.S. and foreign govern-

ment officials, AAP's International Copyright Protection activities continued full tilt throughout the spring.

Raids in South Korea, Taiwan and Hong Kong were highly successful, with a few particularly noteworthy. In South Korea, AAP worked with government authorities and the Korea Reprographic and Transmission Rights Center (KRTRC) to raid several premises in the first two weeks of March. The raids, which hit illegal operations with proximity to 20 universities primarily in the vicinity of Seoul, resulted in the seizure of hundreds of illegal copies. With cooperation from local authorities, AAP also conducted a successful raid on March 18.

In Taiwan, AAP and member company representatives (working through the local AAP group, the Taiwan Book Publishers Association) and local police, under the supervision of the Ministry of Justice, raided pirate operations in Taipei City, Taoyuan, Taichung and Tainan on March 10 and 23. As a follow-up, the TBPA worked with a newly formed government group, the Intellectual Property Right Protecting Corps, to raid several copyshops on March 24 and April 6. These raids resulted in the seizure of hundreds of books belonging to a wide cross-section of AAP members. Prosecutions growing out of these enforcement actions are continuing.

Ongoing cooperation between local AAP publishers and the Hong Kong Customs & Excise Department resulted in a series of raids

throughout the spring. In the most recent on May 10, authorities seized more than 150 copies at shops located throughout the city, in Causeway Bay, Shaukeiwan and Tsuen Wan. Authorities also confiscated two machines and arrested three individuals in connection with these raids. Prosecutions are in progress.

With the arrival of summer, which traditionally is the most intensive copying season in Southeast Asia, AAP is engaged throughout the region in efforts to minimize the impact of illegal copying. In Malaysia, in the first of a series of raids planned for June and July, AAP lawyers working with local authorities seized 53 master copies (used for making hundreds of photocopies) and several copy machines from an illegal operation in Kuala Lumpur on June 23. Planned raids are also imminent in the Philippines.

An informant reward scheme that AAP has put in place in Malaysia has already produced results. A similar scheme is being finalized in Hong Kong.

The International Copyright Protection agenda has not been limited to raids. AAP continues to collect valuable information about overseas markets for use in future enforcement and ongoing lobbying efforts. Notably, a textbook piracy study conducted this spring in the People's Republic of China, in cooperation with the Publishers Association U.K., produced useful information on the nature of textbook piracy on and around university campuses.

AAP and PA are now working with the Chinese government to focus needed attention on the problem. In addition, AAP is bringing university administrations and education ministries in several territories into the fight against on-campus infringement. With help from the U.S. government, AAP was able to elicit an unprecedented letter to universities in South Korea from the Minister of Education, asking for reports on their efforts to limit or eliminate on-campus book piracy. AAP is working with the U.S. and Korean governments to monitor progress and ensure that the universities submit the required reports. Engagement with education ministries has also begun elsewhere, notably in Taiwan, Singapore and Malaysia.

Advocacy efforts continue on legislative and enforcement issues. AAP has been in close communication with U.S. government officials during bilateral dealings with China, as part of the Joint Commission on Commerce and Trade (JCCT) and discussion of possible invocation of World Trade Organization (WTO) remedies. In Hong Kong, AAP has been involved in heated legislative battles over criminal liability for infringement, fair use and the protection of works in digital form, which are expected to continue into next year.

In Thailand, AAP has been working to change the unclear and overbroad provision in the copyright law that has allowed commercial infringement of academic materials for "educational use." AAP worked

in close cooperation with U.S. government officials to craft language that would close the loophole, to be put forward during the U.S./Thailand Free Trade Agreement (FTA) negotiations. AAP also continues to monitor Singapore's compliance with its FTA intellectual property protection obligations.

In Japan, AAP has joined with local publishers and other international publishing groups to fight a proposed compulsory license that would allow copying of medical materials far beyond international norms.

AAP is working to ensure that Vietnam implements reforms needed to bring it into compliance with the major international copyright treaty it recently joined.

AAP won its first major court battle in the Philippines with the sentencing of a well-known medical book pirate to a year in jail and imposition of a substantial fine for several counts of infringement. Also, working with U.S. and Philippine government officials, AAP made some progress in the effort to rid shelves of illegal materials reproduced under a long-since-repealed compulsory license provision.

Educational efforts continue throughout the region, most notably in the Philippines, where a mass media campaign is underway, and in Malaysia, where poster campaigns have gotten the attention of university officials.

AAP has further market research planned for China, including research on protection of online materials. In Thailand, AAP will support its bid for policy reform with ongoing research, educational campaigns and possible enforcement action.

In cooperation with the British PA, AAP will co-host a Publishers Roundtable to coincide with the Beijing International Book Fair in September. The event will provide an opportunity for increased dialogue between industry and government groups. AAP and PA will sponsor a joint delegation to India early in 2006 to coincide with the World Book Fair in New Delhi.

For more on AAP's International Copyright Protection Program: Patricia Judd, AAP Washington pjudd@publishers.org.

HIGHER EDUCATION

AAP Participates in Georgia Textbook Forums

AAP participated in a series of four forums on college textbook pricing initiated by the Georgia University System Board of Regents held this spring at various locations around the state. Panelists representing students, bookstore managers and faculty members were joined by Rich Bigger (Wiley) and AAP's Executive Director for Higher Education Bruce Hildebrand, who spoke on the industry's behalf. The presentations were followed by discussion with audience members.

Many issues surrounding textbook pricing were raised, with bundling and used book sales dominating much of the discussion. Students expressed concern over what they see as a growing number of professors who require textbooks that are not used in the classroom or for testing purposes.

Faculty members, who believe such legislation would compromise academic autonomy in the higher education community, expressed strong opposition to legislation to regulate textbooks. While faculty members did not raise objections to textbook prices, some commented on the extensive use of graphics. Much of the faculty commentary regarding textbooks was positive, with high praise for materials provided directly to professors to aid in their teaching.

Among the suggestions to address the issue of textbook costs that emerged from the four events were elimination of sales tax on textbooks, requiring texts to be used for a certain period of time, and initiatives to increase the number of textbooks available through campus libraries.

For additional information: Stacy Scarazzo, AAP Washington (sscarazzo@publishers.org).

NOTICE: material in the aap MONTHLY REPORT is protected by copyright. It may, however be reproduced or quoted with appropriate credit. © 2005 aap

PROFESSIONAL & SCHOLARLY PUBLISHING**Journals Boot Camp Set for Chicago, September 14-17**

The PSP Journals Committee will sponsor its ninth Journals Boot Camp, an intensive journals publishing course, at the Radisson Hotel & Suites, Chicago, Illinois, September 14 through 17. Held every two years, the course is directed to junior to mid-level staff interested in broadening their knowledge of journals publishing.

Boot Camp provides a case-study approach to learning the ropes in traditional print and electronic journal publishing. Instruction covers acquisitions, finance, production and manufacturing, marketing in multiple media, distribution, customer service, creating financial models, presentation and a look at the future. In addition to participating in classroom presentations, the “recruits,” working in groups, will be required to create a journal publishing proposal and make a pitch to “win” the journal for their publishing house.

Space for the program is limited to 60 participants, so early registration is encouraged.

For additional information: Sara Brandwein, AAP New York (sbrandwein@publishers.org).

CALENDAR**July 19th, Tuesday**

PLVA, 10:00 a.m. – 11:30 a.m., Room 1 (**KATIE BLOUGH**)
Paper Committee, 12:00 p.m. – 2:00 p.m., Room 1 (**KATIE BLOUGH**)

July 20th, Wednesday

College Outreach, 11:00 a.m. – 12:00 p.m. (**TRACY KAUFMAN**)
DRRC, 12:30 p.m. – 2:00 p.m. (**KATIE BLOUGH**)

July 21st, Thursday

PSP Executive Council, 12:00 p.m. – 3:00 p.m., Rooms 1 and 2 (**SARA BRANDWEIN**)

July 27th, Wednesday

Libraries Committee, 12:00 p.m. – 2:00 p.m. (**KATIE BLOUGH**)

July 29th, Friday

ICPC, 12:00 p.m. – 2:30 p.m., Rooms 1 and 2 (**PATRICIA JUDD**)

August 3rd, Wednesday

PSP/EIC Meeting, 12:30 p.m. – 2:30 p.m., Rooms 1 and 2 (**SARA BRANDWEIN**)

August 8th, Monday

Copyright Committee, 12:00 p.m. – 2:00 p.m., Rooms 1 and 2 (**ALLAN ADLER**)

August 10th, Wednesday

PSP Journals Committee Roundtable, 12:00 p.m. – 5:00 p.m., Rooms 1 and 2 (**SARA BRANDWEIN**)

September 12th, Monday

Copyright Committee, 11:00 a.m. – 2:00 p.m., Rooms 1 and 2 (**ALLAN ADLER**)

September 13th, Tuesday

College Outreach, 11:00 a.m. – 12:00 p.m., Rooms 1 and 2 (**TRACY KAUFMAN**)
DRRC, 12:30 p.m. – 2:00 p.m., Room 1 (**KATIE BLOUGH**)

September 14th, Wednesday

Freedom to Read, 12:00 p.m. – 2:00 p.m., Rooms 1 and 2 (**JUDY PLATT**)

September 14th – 17th, Wednesday – Saturday

PSP Journals Boot Camp in Chicago (**SARA BRANDWEIN**)

September 20th, Tuesday

AAP Board of Directors, 12:15 p.m. – 2:30 p.m., Rooms 1 and 2 (**KATIE BLOUGH**)

SAVE THE DATE**March 14th, Tuesday**

2006 AAP General Annual Meeting @ The Millennium Broadway Hotel (145 West 44th Street, 10036-4012, NYC)

March 15th, Wednesday

2006 SIP Annual Meeting in NYC (venue to be announced)

For information:
kblough@publishers.org

