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A NEWS BULLETIN
FOR MEMBERS OF
THE ASSOCIATION OF
AMERICAN
PUBLISHERS
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AAP UNVEILS HANDBOOK ON BOOK PAPER AND THE ENVIRONMENT

On February 20 AAP unveiled its new *Handbook on Book Paper and the Environment*. The Association hopes this practical guide will assist publishers in navigating the confusing and often arcane issues relating to the development of environmental sustainability practices within the book publishing industry.

Developed by the AAP Paper Issues Working Group, the *Handbook* is the first of its kind to address a range of environmental issues in the specific context of the book publishing industry, and reflects more than two years of extensive consultations and discussions with organizations representing a broad spectrum of interests, including environmental advocacy groups, forest certification and standards bodies, environmental industry consortiums and associations, economists, paper mills, and others, covering a host of governmental, commercial and environmental issues as they relate to book paper production and the environment.

The *Handbook* is intended to be an informational tool for book production professionals, their staff, and their executive management interested in creating workable independent sustainability programs, providing up-to-date information to assist in efforts to balance economic and ecologic realities. Among the areas covered in the *Handbook* are recycling (including pre- and post-consumer recycled fiber distinctions), forestry certification standards, “chain of custody,” issues facing paper and recycling manufacturers, global practices and

economic impacts, and green production efforts. The *Handbook* also contains Frequently Asked Questions, and organizational contact information.

The AAP Paper Issues Working Group represents a broad cross-section of the AAP membership. Its members include: American Chemical Society, Cambridge University Press, CQ Press, Hachette Book Group USA, Harcourt, HarperCollins USA, Harvest House Publishers, John Wiley & Sons, Keene Publishing, Lantern Books, Macmillan, McGraw-Hill, Pearson, Random House, Scholastic, and Simon & Schuster, and W.W. Norton.

An Executive Summary of the *Handbook* is available on request from Tina Jordan (tjordan@publishers.org). For additional information about the Handbook or the Paper Issues Working Group contact Tina Jordan or Ed McCoy (emccoyd@publishers.org).

ANNUAL MEETING

AAP Annual Meeting Will Focus on New Directions

The 2008 AAP Annual Meeting, scheduled to convene on Wednesday March 5, 2008 at the Yale Club in New York, will look at “The Future of Publishing” from a variety of perspectives.

Highlights of the program include a conversation with former Simon & Schuster head Jack Romanos, who will be interviewed by Walter Isaacson, bestselling author and

President of The Aspen Institute. AAP Chairman Richard Sarnoff (Random House) will engage in a dialogue with Steve Kessel, Senior Vice President, Worldwide Digital Media at Amazon.com., and George Jones, President and CEO of Borders, will talk with David Young (Hachette Book Group USA) about new directions in bookselling.

A highlight of the meeting will be the presentation of the *AAP Honors* award to the National Book Critics Circle. NBCC President John Freeman will be on hand to accept the award.

COPYRIGHT

AAP Announces Agreements with Universities on New Copyright Guidelines for Digital Course Content

Three universities—Hofstra, Syracuse and Marquette—have reached agreement with AAP on new copyright guidelines affirming that educational content delivered to students in digital formats should be treated under the same copyright principles that apply to printed materials. Announced on January 17, the guidelines, which were developed separately by the three universities, govern how librarians and faculty members distribute copyrighted content through library electronic course reserves systems, course management systems, faculty and departmental web pages, and other digital formats.

AAP worked with each of the three universities in cooperative efforts to establish easily understood and

commonsense standards that help faculty and staff understand and interpret their rights and responsibilities when using copyrighted content in educational settings. Each of the guidelines reflects the specific needs of the particular university and is consistent with the principles of fair use while providing helpful guidance as to when permission from the copyright holder is required to copy or post materials in digital formats. AAP believes the guidelines, which are similar to those adopted by Cornell University last year, will serve as models for others colleges and universities.

In the last two years, AAP has initiated discussions with a number of universities after observing that unlicensed digital copies of course materials were gradually replacing the licensed physical copying of articles, book chapters, and other copyrighted works. While it is well established that physical copying of materials for distribution to multiple students, often in compilations known as coursepacks, generally requires permission from the copyright holder, faculty and staff seem less aware that permission is similarly required for distribution of electronic copies of such copyrighted materials. The new guidelines at each university clarify that the use of copyrighted works in digital formats requires such permission.

To view the copyright guidelines, go to:
http://www.hofstra.edu/pdf/about/Policy/policy_ereserves.pdf
http://www.marquette.edu/library/reserve/ereserve_copyright_guidelines.pdf
<http://sunews.syr.edu/copyright.cfm>

PROFESSIONAL & SCHOLARLY PUBLISHING DIVISION

NIH Mandate on Journal Articles Undermines IP Rights Essential to Science Publishing

AAP issued a statement on January 3 criticizing a controversial new NIH research publication policy that was enacted as part of the omnibus appropriations package for 2008. Under the previous *voluntary* policy, NIH-funded researchers who wrote articles for publication in scientific journals were “requested” to submit an electronic version of their final, peer-reviewed manuscripts to NIH immediately upon acceptance by a journal for publication, so that the agency could make it freely available to the international online world through its PubMedCentral web site no more than 12 months after the date of journal publication. The new policy, which makes such submissions mandatory, “eliminates the concept of permission, and effectively allows the agency to take important publisher property interests without compensation,” according to Allan Adler, AAP vice president for government and legal affairs.

The AAP statement reaffirms the commitment of journal publishers who have opposed the policy to continue pursuing their concerns with Congress regarding the policy’s negative impact on science publishing and the protection of related intellectual property rights. Publishers will also urge NIH to conduct a rulemaking proceeding, with opportunity for public comment, before implementing the new policy.

The complete statement can be found at:

<http://www.publishers.org/main/PressCenter/NIHMandatoryPolicy.htm>

Winners of the PSP Awards for Excellence Announced

The PSP Division announced the winner of the R.R. Hawkins Award for the Outstanding Professional, Reference or Scholarly Work of 2007 on February 7. This year’s 14-member judging panel selected *The Dream of the Poem* by Peter Cole, published by Princeton University Press, to receive the R.R. Hawkins Award, which is named for the former head of the Science and Technology Division of the New York Public Library.

Peter Cole’s book, *The Dream of the Poem*, is the first to represent, collect, and give significant scholarly attention to the Hebrew poets in Muslim and Christian Spain, a period recognized as poetically rich, but predominantly Muslim, where Hebrew poetry had been largely overlooked until now. Cole, for the first time, brings to English language readers, a comprehensive collection of what is now considered to be some of the finest poetry of the European Middle ages and an indispensable part of Jewish literature.

In addition to the Hawkins Award, awards were given in 30 categories for outstanding books, journals and digital products covering a wide range of academic disciplines. The awards were presented at a special awards luncheon during the PSP Annual Conference in Washington, D.C. on February 7. For a complete list of winners please

go to:
<http://www.publishers.org/main/PressCenter/2007PSPAwardsRelease.htm>

FREEDOM TO READ

AAP Welcomes NY Legislation to Fight ‘Libel Tourism’

AAP welcomed the introduction of legislation in the New York State legislature that will make it harder for “libel tourists” to threaten authors and publishers in New York by bringing meritless defamation actions in plaintiff-friendly foreign courts. The legislation was announced at a press conference on the steps of the New York Public Library on January 13.

The legislation was introduced by New York State Senate Deputy Majority Leader Dean Skelos and Assemblyman Rory Lancman in response to a December 20 ruling that New York courts lacked jurisdiction to hear U.S. author Rachel Ehrenfeld’s lawsuit seeking to have a British default libel judgment against her declared unenforceable in the United States (see *Monthly Report* December 2007). Ehrenfeld, author of *Funding Evil: How Terrorism is Financed and How to Stop It*, was sued in a London court by Saudi billionaire Khalid bin Mahfouz under the U.K.’s notoriously plaintiff-friendly libel laws, despite the fact that her book was never published in Great Britain and neither Ehrenfeld nor bin Mahfouz resides there. Although she refused to take part in the suit, Ehrenfeld was hit with a default judgment involving substantial monetary damages, a “declaration of falsity” against the

book, a demand for a public apology, and an injunction against U.K. publication.

The proposed legislation would amend New York’s code of civil practice to prohibit enforcement of a foreign libel judgment unless a New York court determines that it satisfies the free speech and press protections guaranteed by the U.S. and the New York State constitutions. The legislation would also amend New York’s “long-arm” statute to allow courts, under certain circumstances, to exercise personal jurisdiction over non-residents who obtain foreign libel judgments against New York residents in order to grant the type of declaratory relief that Ehrenfeld sought but was unable to obtain.

Judith Platt, director of AAP’s Freedom to Read program, said: “AAP is pleased to see the introduction of legislation that will make it harder for libel tourists such as Khalid bin Mahfouz to prey on authors and publishers in New York. The New York Court of Appeals ruling disclosed the need for clearer statutory authority to safeguard free speech rights threatened by libel tourism. We’re grateful to Senator Skelos and Assemblyman Lancman for moving so quickly to meet that need.”

AAP Supports Valerie Plame in CIA Lawsuit

AAP, joined by 11 groups representing a wide spectrum of media and free-speech interests, filed an *amicus* brief urging a federal appeals court to reverse a ruling which forbids “outed” former CIA operative Valerie Plame Wilson from mentioning the dates of her CIA employment in her recently published memoir. The government’s

redactions were made despite the fact that Ms. Wilson had received an unclassified letter from a CIA benefits official clearly spelling out the dates of her employment and that this letter was introduced at House hearings, published in the *Congressional Record*, and is widely available on the Internet.

In May 2007, with publication of her memoir just months away, Wilson and her publisher Simon & Schuster sought a ruling from a federal district court in New York that the government was imposing an unlawful prior restraint in demanding that she remove from the book all mention of the dates of her CIA employment prior to 2002. The government filed a cross-motion for summary judgment, and in August the court granted the government’s motion, finding that the information had been properly classified by the CIA, had never been declassified, and was not “officially acknowledged” by the agency. The book, *Fair Game: My Life as a Spy, My Betrayal by the White House*, was published in October with the redactions clearly shown, accompanied by a note from the publisher explaining what had been done and why. The book also contained an afterword by journalist Laura Rozen providing the historical context that Ms. Wilson was unable to include herself.

The *amicus* brief, filed February 5 in the U.S. Court of Appeals for the Second Circuit, points out that as a result of the district court decision, “any member of the public can access and freely disseminate the pre-2002 dates of Wilson’s CIA employment, but Wilson herself cannot,” a result that the brief calls “perverse.” While not taking issue with the high level of deference

ordinarily given to CIA classification decisions by the courts, the brief asserts that “the circumstances presented here—Wilson is seeking to publish under her own name autobiographical information that is readily accessible to the public—demand searching judicial scrutiny of [the government’s] justifications,” particularly in view of the strong constitutional presumption against prior restraints. The brief points out the irony that the case “involves the government’s efforts to censor purportedly classified public-domain information from a book that describes the wrongful disclosure to the media of classified information by senior government officials.”

Among the groups who joined AAP in filing the brief are the American Booksellers Foundation for Free Expression, the Freedom to Read Foundation, the American Society of Newspaper Editors, the Radio-Television News Directors Association, and the Reporters Committee for Freedom of the Press. The brief, which can be found online at: <http://www.publishers.org/main/PressCenter/documents/07-4244-cvWilsonvMcConnellAmicusCuriaeBrief.pdf>, was written by AAP’s Freedom to Read Counsel Bruce Rich and Jonathan Bloom of Weil, Gotshal & Manges LLP.

AAP Protests Administration’s Attempt to Weaken New FOIA Law

AAP welcomed the passage in late December of the Open the Government Act of 2007, the first Freedom of Information Act reform legislation approved by Congress in more than a decade. Among its provisions, the law created a new Office of Government Information Services (OGIS)

at the National Archives to serve as ombudsman in hearing citizens’ complaints about FOIA compliance and to pursue mediation and other alternatives to costly litigation.

A scant five weeks after the President signed the bill, the Bush Administration, through its budget proposals for FY 2009, attempted to shift funding for the office from the National Archives to the Department of Justice, in effect re-writing the law. Since the Department of Justice is charged with the responsibility of *defending* government agencies in FOIA disputes, there is a built-in conflict of interest in locating the ombudsman’s office at DOJ. AAP joined with other members of the Open the Government coalition (www.openthegovernment.org) in sending a letter to Congressional appropriators opposing efforts to use the budget process to thwart Congressional intent and urging the appropriation of necessary funds to establish the OGIS at the National Archives.

AAP Joins in Filing Amicus Brief on California Video Game Statute

On February 13 AAP joined with other members of Media Coalition in filing an *amicus* brief urging the 9th Circuit Court of Appeals to uphold the district court ruling in *VSDA v. Schwarzenegger* which struck down a California statute regulating the sale of violent video games. In August 2007, a U.S. district court in California issued a permanent injunction barring enforcement of the statute, which would have banned the sale or rental of video games depicting violence in an “especially heinous, cruel or depraved” manner to anyone under 18, and would have required manufacturers and distributors to

place warning labels on such games. The amicus brief argues that the language of the statute is unconstitutionally vague and that the lower court got it right in rejecting the state’s impermissible attempt to regulate First Amendment-protected material on the basis of violent content.

TRADE PUBLISHING

Library Groups and Publishers Celebrate Children’s Day/Book Day 2008

To support the festivities that will be held nationwide on April 30 in celebration of El día de los niños/El día de los libros (Children’s Day/Book Day 2008), AAP’s Publishing for Latino Voices Task Force and the Association for Library Service to Children (ALSC), a division of the American Library Association, have partnered for the first time to create a recommended reading list of children’s books in both English and Spanish for ages infancy -14 years as a resource for parents and others who choose books for children.

The bibliography features some two dozen English- and Spanish-language titles published by AAP members and selected by ALSC’s Quicklists Consulting Committee, including bilingual picture books, coming-of-age stories, and non-fiction, all celebrating Latin culture and Latin American identity. The bibliography will be made available to libraries and other organizations participating in Día celebrations and at BookExpo America in May 2008, as well as at other spring events and conferences. The

bibliography is available in PDF format on AAP's website at <http://www.publishers.org/main/Latino/Diabibliographylist.htm> and on the Get Caught Reading Web site at www.getcaughtreading.org.

Latino Publishing Task Force to Host Two Author Events at BEA

AAP's Publishing for Latinos Voices Task Force, in cooperation with BookExpo America, will host an author event featuring Latino authors of both English and Spanish language titles on Friday, May 30 at the Los Angeles Convention Center in Los Angeles, California. Both adult and children's author events will be held. For additional information: Tina Jordan at tjordan@publishers.org.

INTERNATIONAL FREEDOM TO PUBLISH

AAP Protests Azerbaijani Editor's Prison Sentence

In a letter dated January 29 to the President of Azerbaijan, AAP President and CEO Pat Schroeder, and Hal Fessenden (Viking Penguin), Chair of AAP's International Freedom to Publish Committee, voiced the publishing community's outrage over the eight-and-a-half-year prison sentence given to Eynulla Fatullayev, editor of Azerbaijan's two largest independent newspapers, *Realni Azerbaijan* and *Gundelik Azerbajian*.

Mr. Fatullayev was convicted last fall on charges of terrorism, inciting ethnic hatred and tax evasion.

His conviction appears to be part of a well orchestrated and concerted effort by Azerbaijani authorities to silence independent media voices. He is the eighth journalist in Azerbaijan to be sentenced on defamation and other criminal charges. Other journalists are being subjected to unrelenting threats and intimidation.

AAP and its IFTP Committee will continue to monitor and protest abuses of publishers' and authors' freedom of expression around the world.

IFTP Members Visit Cambodia

At the invitation of the Center for Khmer Studies, Hal Fessenden (Viking Penguin), Chairman of AAP's International Freedom to Publish Committee and Committee member Wendy Wolf (Penguin Putnam) traveled with members of PEN to Phnom Penh in January to assess the state of publishing. Mr. Fessenden reports that as a result of the obliteration of civil society and cultural institutions during the Khmer Rouge period, the situation is very bad. The illiteracy rate is 63 percent; the average monthly income for a worker is \$25; there are few schools, books are scarce, writers are unable to make a living and reading has suffered a general decline. He noted, however, that there is some cause for optimism. The Cambodian government, NGOs, and foundations from the US, Europe, and Asia are trying to rebuild the educational system, particularly at the elementary school level, and are also subsidizing the publication of specific books. Along with these institutions, there are a variety of committed writers' organizations eager to create a PEN chapter. The IFTP Committee and PEN will

will remain in touch to offer practical and moral support.

HIGHER EDUCATION

AAP Testifies at Maryland Textbook Hearing

AAP Higher Education staffers Bruce Hildebrand and Stacy Skelly testified in Annapolis in January at hearings held by the Maryland state legislature on affordability and accessibility of textbooks in higher education. Representatives from the National Association of College Stores, the Maryland Public Interest Research Group (PIRG), and the National Conference of State Legislatures also testified, along with students and faculty members from Maryland universities. Among the issues raised at the hearings were "bundling" of instructional materials, ISBN posting, new editions, bookstore profits, and transparency in textbook price and product information. Legislation addressing these issues is expected to be introduced in the Maryland legislature this year.

INTERNATIONAL COPYRIGHT PROTECTION

Copyright Industries Submit Annual Review of Global IP Protection to USTR

AAP joined with six other copyright-related trade associations to submit its annual Special 301 Report to the

Office of the United States Trade Representative on February 11. The report, completed under the umbrella of the International Intellectual Property Alliance, details copyright piracy and related intellectual property rights and market access problems around the world. The USTR is required by statute to conduct an annual review of intellectual property protection worldwide; the report was prepared pursuant to that mandated review.

This year's report highlights copyright protection and enforcement problems in 51 countries and territories, and recommends that 43 of them be placed on an appropriate USTR "watch list." USTR places countries and territories on appropriate watch lists based upon their ineffectiveness in dealing with intellectual property theft. Global piracy continues to be a serious problem for the copyright industries, and the failure of the countries and territories identified to curb piracy costs the U.S. economy high-paying jobs and undermines U.S. economic growth.

In the report, the IIPA asks that China be placed on the Priority Watch List again this year. Over the past year AAP and its sister organization in the UK continued their engagement with China, focusing especially on organized textbook piracy on China's university campuses and Internet infringements affecting professional and scholarly publishers. The report also recommends that 12 other countries be placed on the Priority Watch List, including Thailand, India, Russia, Mexico, Turkey and Canada, and 29 countries/territories be placed or kept on the Watch List. The report also requests Special 301 out-of-cycle reviews for Thailand, the Philippines and Italy.

The full press release can be found at:

<http://www.publishers.org/main/PressCenter/Special301Release.htm> and the full Special 301 report can be found at www.iipa.com.

AAP/ICP Director Visits Asia; Successful Raids Carried Out in Hong Kong

Patricia Judd, who directs AAP's International Copyright Protection program, spent several weeks in January on a productive swing through Asia, visiting Thailand, Hong Kong, the Philippines, and Japan for meetings with government officials, local counsel, and AAP member company representatives. She reported that the Hong Kong and Japan visits were particularly well-timed to coincide with legislative and regulatory developments of particular concern to publishers. In Hong Kong she learned that regulatory provisions which AAP and other groups have advocated will be implemented. In Japan she was able to take part in discussions with government agencies regarding a proposed limitation of Japanese copyright law that would have a serious adverse effect on scientific publishers.

She also reported that on January 29, with the coordination of the Hong Kong Reprographic Rights Licensing Society and with AAP support, the Hong Kong Customs and Excise Department raided eight copy shops. Officials confiscated 288 infringing copies of copyrighted works (including textbooks, reference books and past examination papers), along with copying and binding machines. Six arrests were made.

NOTEWORTHY

AAP Tax Seminar Set for April

The 2008 AAP Tax Seminar will be held April 21-23 at the Disney Yacht & Beach Club in Orlando, Florida. A block of rooms has been set for the nights of April 20-22 (the seminar will begin Monday morning, April 21, and end Wednesday afternoon, April 23). Please call 407-934-3372 and reference 'AAP Tax Seminar' and group booking code 'G0499233' to access the reserved room block. Rooms will be held until March 20, 2008 and will then be released to the public. The nightly room price is \$250.00 (for single/double occupancy), and that price will prevail the 3 days prior to and immediately following the seminar, should attendees care to extend their stay. Information about seminar registration and the group dinner will be forthcoming.

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CALENDAR

FEBRUARY

February 25th, Monday
Copyright Committee, 12:00 p.m. – 2:00 p.m., Rooms 1 and 2 (ALLAN ADLER)

International Sales, 3:00 p.m. – 5:00 p.m., Rooms 1 and 2 (TINA JORDAN)

February 26th –28th, Tuesday – Wednesday
YPG (tentative) 12:30 p.m. – 2:00 p.m., Rooms 1 and 2 (CHRISTINA RODRIGUEZ)

February 29th, Friday
PSP Books Committee, 12:30 p.m. – 2:30 p.m., Rooms 1 and 2 (SARA FIRESTONE)

MARCH

March 4th, Tuesday
PSP Journals Committee, 12:30 p.m. – 2:00 p.m., Rooms 1 and 2 (SARA FIRESTONE)

March 5th, Wednesday
AAP 2008 General Annual Meeting @ The Yale Club, 50 Vanderbilt Ave, New York City (time to be announced) (TINA JORDAN)
AAP Board of Directors Meeting at The Yale Club, 8:30 a.m. – 9:30 a.m. (prior to the General Annual Meeting) (TINA JORDAN)

March 7th, Friday
PSP/EIC Meeting, 12:30 p.m. – 2:30 p.m., Rooms 1 and 2 (SARA FIRESTONE)

March 11th, Tuesday
IFTP, 12:00 p.m. – 2:00 p.m., Room 1 (MARLENE SCHEUERMANN)

March 12th, Wednesday
Freedom to Read, 12:00 p.m. – 5:00 p.m., Rooms 1 and 2 (JUDY PLATT)

March 13th, Thursday
DISNEY, 12:30 p.m. – 2:30 p.m. Rooms 1 and 2 (TINA JORDAN)

March 18th, Tuesday
AAP Trade Executive Committee, 12:30 p.m. – 2:00 p.m., Rooms 1 and 2 (TINA JORDAN)

March 20th, Thursday
PSP Executive Council, 12:00 p.m. – 3:00 p.m., Rooms 1 and 2 (SARA FIRESTONE)

March 24th, Monday
Copyright Committee, 12:00 p.m. – 2:00 p.m., Rooms 1 and 2 (ALLAN ADLER)

March 25th, - 29th, Tuesday – Saturday
FYI: The Public Library Association's 2008 National Conference (working together with AAP) Minneapolis, MN (TINA JORDAN)

APRIL

April 1st, Tuesday
ICPC, 12:00 p.m. – 2:30 p.m., Rooms 1 and 2 (EMILIA VARGA-WEST)

April 4th, Friday
PSP Books Committee, 12:30 p.m. – 2:30 p.m., Rooms 1 and 2 (SARA FIRESTONE)

April 9th, Wednesday
Freedom to Read, 12:00 p.m. – 5:00 p.m., Rooms 1 and 2 (JUDY

PLATT)

April 15th, Tuesday
PSP Journals Committee, 12:30 p.m. – 2:00 p.m., Rooms 1 and 2 (SARA FIRESTONE)

April 16th, Wednesday
PSP/EIC Meeting, 12:30 p.m. – 2:30 p.m., Rooms 1 and 2 (SARA FIRESTONE)

April 17th, Thursday
PSP Executive Council, 12:00 p.m. – 3:00 p.m., Rooms 1 and 2 (SARA FIRESTONE)

April 21st, Monday
Copyright Committee, 12:00 p.m. – 2:00 p.m., Rooms 1 and 2 (ALLAN ADLER)

April 24th, Thursday
IFTP, 12:00 p.m. – 2:00 p.m., Room 1 (MARLENE SCHEUERMANN)

April 30th, Wednesday
Children's Day/Book Day 2008

MAY

May 2nd, Friday
PSP Books Committee, 12:30 p.m. – 2:30 p.m., Rooms 1 and 2 (SARA FIRESTONE)

May 9th, Friday
PSP Basic Books Boot Camp, 9:00 a.m. – 5:00 p.m., Rooms 1 and 2 (SARA FIRESTONE)

May 12th, Monday
PSP Executive Council, 12:00 p.m. – 3:00 p.m., Rooms 1 and 2 (SARA FIRESTONE)