

STUDY OF DISTANCE EDUCATION
THROUGH DIGITAL TECHNOLOGIES
UNDER §403 OF THE DIGITAL MILLENNIUM COPYRIGHT ACT
BY THE UNITED STATES COPYRIGHT OFFICE

REPLY COMMENTS OF ASMP,
THE AMERICAN SOCIETY OF MEDIA PHOTOGRAPHERS,
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Listening to and reading the testimony and comments from the educational community, one gets a sense of an underlying theme: that of entitlement. The prevailing mind set seems to be that educational activities and institutions are good and that, therefore, they are inherently entitled to whatever they want or need. It is somehow politically incorrect to question that conclusion. However, getting from the premise of the goodness and importance of education to the conclusion of entitlement is an emotional leap, not a logical conclusion. In all areas of property other than intellectual property, there is no assumption that the educational community is somehow inherently entitled to free ownership or use. Similarly, the world is full of good, important and valuable activities, institutions and people, but they are not exempted from the basic rules of property rights. Education should not be a sacred cow.

In fact, this country's concept of correct policy has changed recently away from any sense of entitlements. Welfare has been stripped to a minimum and is being phased out at all levels of government. There is no valid reason why the educational community should be given an increase in welfare entitlements, which is precisely what expanded fair use or an exemption from copyright would be, at the expense of the creators of intellectual property. If the study in which we are currently participating involved a proposal that certain people and institutions should be given free access to Apple or IBM computers, and that the power companies should provide free electricity to run those computers, this study would not be taking place. Any proposal for such a taking of private property would be rejected out of hand. That concept should not change just because the specific type of property is changed.

The educational community already has free access to intellectual property in some situations. Now its members want more, far more. We agree that they should be able to take full advantage of developments in technology. We just believe that they should have to pay for those new developments, just as everyone else does; just as they, themselves, have to pay for computers, power, paper, and even chalk (for as long as anyone still uses it); just as students and/or taxpayers have to pay for access to that very educational community.

We urge the Register and Congress not to expand welfare for the educational community. If the schools and libraries and museums are deserving of special consideration, they are not any more so than the artists who create copyrighted works, trying desperately to make a reasonable living in the process, the artists at whose expense any expanded copyright exemption would come. Countries with sacred cows also have people dying of starvation.

