Medical Library Association

Suite 300
Six North Michigan Avenue
Chicago, Illinois 60602-4805
312.419.9094
Fax 312.419.8950

MLA

May 6, 1997

Peter Fowler
Patent and Trademark Office
U.S. Department of Commerce
Washington, DC 20231

Dear Peter:

I am writing on behalf of the Medical Library Association (MLA) to express our opinion on the Proposals for Fair Use Guidelines for Distance Learning, Educational Multimedia, and Digital Images that are presented in *The Conference on Fair Use: An Interim Report to the Commissioner,* December 1996.

MLA does not endorse the Guidelines on Distance Learning, Educational Multimedia, and Digital Images. In establishing this position, MLA recognizes the significant amount of work and time given by many individuals and organizations to develop fair use guidelines. Our organization acknowledges, however, that because technology is changing rapidly and policies are still under development, it may be premature to endorse guidelines. Any guidelines adopted today based on the current information environment would soon be out of date and irrelevant.

MLA believes that the development of fair use guidelines in the digital environment should foster the stated purpose of copyright--to promote the public welfare through the advancement of knowledge--as well as to balance the rights of information owners with the rights of users. We maintain that Section 107 of the Copyright Act of 1976, which allows for reasonable use of a work without permission for specified purposes, including scholarship, teaching, and research, should be preserved in the digital environment.

Our organization is concerned that the guidelines are too restrictive and would not allow for reasonable use of a work. These restrictions, allowing use of only portions of images, or a few seconds of music, will create barriers for educators. Teaching anatomy, for example, would be difficult if only parts of illustrations could be used. Educators should be empowered to share information with their students to make them aware of the knowledge that exists. This is permitted under

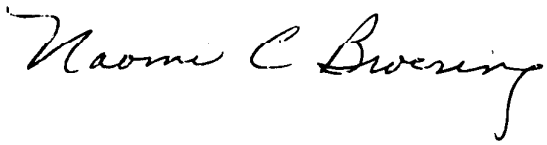
fair use. The proposals for guidelines, as presented, would deter, rather than encourage, the extension of knowledge and learning.

MLA also is concerned that the draft guidelines do not provide the flexibility needed to adapt to the changing technological environment. As educational institutions expand programs to include students at a distance, educators and librarians must be able to provide them with equal access to self-study materials. Access for students communicating to the university through the Internet is essential. While security safeguards such as passwords of a PIN are understandable, limitations to a local network are not.

For these reasons and because the proposals for guidelines have not received widespread endorsement by participating organizations, MLA recommends that all of the proposals for fair use guidelines should not be made part of any Congressional record or legislative history. We respectfully request that this statement be included in the final report to the Commissioner on Patent and Trademarks.

MLA appreciates having had the opportunity to participate in the Conference on Fair Use. The CONFU meetings have provided the forum for a diverse group of participants to address their interests and concerns for the application of fair use in the digital environment. While the meetings did not result in the development of guidelines that can be supported by many of the participating organizations, we have found the process to be informative and worthwhile.

Sincerely,



Naomi Broering
President, MLA