

Association of American Publishers, Inc.

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1718 Connecticut Avenue, N.W.  
Washington, D.C. 20009-1148  
Telephone 202 232-3335  
Fax 202 745-0694

**Patricia S. Schroeder**  
President and  
Chief Executive Officer

June 27, 1997

Mr. Peter Fowler  
Office of Legislative & International Affairs  
Patent & Trademark Office  
U.S. Department of Commerce  
Box 4  
Washington, D.C. 20231

Dear Mr. Fowler:

The Association of American Publishers submits the attached statement in support of the Conference on Fair Use for inclusion in the published version of your report.

Sincerely,



Patricia S. Schroeder

Attachment

**Association of American Publishers ( AAP)  
Statement of Support for Conference on Fair Use**

The Conference on Fair Use did not answer all the questions surrounding fair use in the digital age; however, given the uncertainties about the evolving digital environment that both users and copyright holders face, it would have been surprising if it had.

Full consensus on all subjects at this stage is not the test by which success should be measured. What is important is that CONFU demonstrated that it is possible to have a productive dialogue and that it is possible to develop guidelines that are mutually acceptable to a critical mass of users and rights holders in some areas. We are convinced that, with additional experience, confidence, and time, the people who are most directly affected can work together to implement the general and flexible provisions of Section 107 and adapt them to new technology as they have done in the past. This is inevitably an evolving and ongoing process.

The AAP and many of its individual publisher members participated in the various working group discussions – those that completed guidelines and those that did not. Our signatures on the Multimedia Guidelines attest to our support for that work product which reflects compromises negotiated to achieve the practical goal of providing guidance. The Multimedia Guidelines apply the four statutory factors of fair use to the needs of faculty and students to use portions of copyrighted materials under fair use in making multimedia, and they provide guidance to interpret fair use for this purpose.

We are disappointed that the Distance Learning and Image Archive guidelines did not achieve broader support from proprietors and users alike. Publishers worked on them in a spirit of compromise and hope that time will both demonstrate their usefulness and provide the opportunity to work on them further.

It is important to note that the Guidelines produced by the CONFU process are all voluntary guidelines. They do not, as others have suggested, in any way diminish or expand the statute. However, as an honest attempt by the participants to consider the intent of the law and its limitations and apply them in the evolving digital environment, they will provide guidance and a measure of comfort about compliance.

We support CONFU and are committed to continuing effective dialogue as CONFU enters its next phase.

June 1997