

- 12 There exist categories of works that do involve originality and creativity, but which under US law have been explicitly excluded from copyright coverage, e.g. brief phrases, titles of works, and typefaces (but not computer fonts, which are copyrightable). Also excluded are all works of the US Government and state constitutions, statutes, and judicial opinions.
- 13 The amount of time and effort involved in creating something is irrelevant in American law, which rejects the concept of copyright based on the 'sweat of the brow' (see *Feist* 1991). It seems counterintuitive, but data that required a year's worth of hard work to amass might not be copyrightable whereas a letter to the editor of a scholarly journal that took an hour to write would be copyrighted.
- 14 The only legal requirement is that if monies are involved, e.g. someone pays one of the co-authors for permission to include the joint article in a collected volume, the co-copyright holder who is operating unilaterally must provide an accounting and sharing of proceeds with the other copyright holders on an equal basis.
- 15 There are actually legal consequences of getting the copyright initially as employer-Author under the Work for Hire doctrine and getting the copyright from the initial author by copyright assignment, different advantages accruing in the different cases. Although this would make a challenging question in a final examination in a law school copyright course, the differences are inconsequential for most purposes and we need not go into them here.
- 16 Section 4 of LSA's 'Publication Agreement and Transfer of Copyright' for *Language*, which I helped draft, provides considerable protection for authors' rights:

'4. The AUTHOR of a work published in *Language* shall retain the following rights: a. the right to include the Work in a thesis or dissertation; b. the right to expand the Work into book-length form for publication; c. the right to include the Work in a compilation edited by the AUTHOR or in a collection of the AUTHOR's own writings, whether edited by the AUTHOR or by someone else; d. the right to reproduce and distribute the Work to students in a course taught by the AUTHOR; e. the right to present the Work at a conference and to hand out copies of the paper to persons attending the conference; f. the right to deposit the Work in the AUTHOR's institutional repository or other noncommercial scholarly archive subject to a two-year embargo from the time of publication.'

[The perceptive reader may ask on what basis could someone writing this chapter (in this case me) include the long quotation just presented? To this question, which can serve as a test to see whether readers of this chapter have captured the essence of US copyright law, there are at least three possible answers. The first is that I might have sought and received permission from the LSA, permission always being a good solution when one wants to use copyrighted materials. The second is that since I helped draft LSA's Publication Agreement, I qualified as a joint author, and thus co-copyright holder, who thereby had the right to use the material as I pleased (see §2.6 above). The third is that citing a standard author's agreement for a scholarly article falls within the range of 'fair use', for which permission from LSA was unnecessary (see §19.1.4 above).]

- 17 SPARC is the acronym for The Scholarly Publishing and Academic Resources Coalition, see <http://www.arl.org/sparc/> . Although SPARC undoubtedly means well and cares about the welfare of scholars and academic institutions, my personal view is that its aggressive activism and distorted propaganda has shown it to be naïve and wrongheaded when it comes to important political and policy matters affecting academia.
- 18 The Directory of Open Access Journals <http://www.doaj.org> currently lists close to 7,000 open access journals in existence. Since the DOAJ is not aware of all journals that are published on an open access basis, and since open access journals continue to be launched at a rapid rate, their listing could be off by as much as 100%: the number of such journals could easily be in the 8,000 journal range. Good peer-reviewed open access journals differ from traditional journals only in the means of production and distribution and not in matters of editorial policy or in scholarly standards. As a result, the initial resistance by scholars to publish in unproven open access journals is wilting away. In the case of field linguistics, what is arguably the top journal in the field, *Language Documentation & Conservation* (<http://www.nflrc.hawaii.edu/ldc/>), is an open access journal.