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## Biographer to View Work on Hubbard In Copyright Battle

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NEW YORK — In a decision putting copyright concerns ahead of free-press interests, a federal judge ordered that a manuscript about L. Ron Hubbard be turned over to his authorized biographer for inspection before publication.

U.S. District Judge Louis Stanton ruled that New Era Publications International had reason to believe its copyrights might be violated by the planned book on the late Mr. Hubbard, who died in 1986. The judge said permitting New Era to see Carol Publishing Group's edited manuscript before publication "does not invade Carol's editorial process."

New Era has certain exclusive copyrights for some of Mr. Hubbard's private papers for the purpose of writing the authorized biography of the late founder of the Church of Scientology. New Era is a Copenhagen publisher of Scientology books. Scientology, founded by Mr. Hubbard, teaches that spiritual competence is achieved by "erasing" mental images in the unconscious mind that cause irrational behavior.

If New Era, prior to publication, found what it believed to be unauthorized use of copyrighted material in the Carol Publishing manuscript, New Era could sue to enjoin release of the planned book.

The ruling is part of a recent trend in federal courts in New York toward strengthening protection for copyrighted materials quoted in books. A panel of the Second U.S. Circuit Court of Appeals in New York recently ruled in New Era's favor in another case pitting copyright protection against First Amendment interests. That decision is pending before the full appeals court.

"This is the latest example of copyright law being used to overcome well-established First Amendment principles," said Floyd Abrams, a First Amendment lawyer in New York.

He added: "It's deeply disturbing for a court order to require a manuscript of a critical work to be turned over to the party being criticized on the mere suspicion that it may infringe the copyright law."

In the earlier appeals-court case, the panel ruled that a different book about Mr. Hubbard infringed New Era copyrights. But the court didn't grant any injunctive relief because the book had already been published abroad. The court also said New Era should have acted sooner to protect its copyrights.

In the case before Judge Stanton, the judge said the appeals-court decision in the earlier case implied that a court could have ordered the manuscript be turned over to New Era before publication.

The book in the earlier case drew on documents provided by Jonathan Caven-Attack, the author of the new book planned by Carol Publishing of New York.

New Era claims Mr. Caven-Attack's manuscript will infringe its copyrights. The appeals court found that the earlier book's use of Mr. Hubbard's boyhood diaries, provided by Mr. Caven-Attack, violated the copyrights.

Carol Publishing told Judge Stanton that the book it plans to publish contains only previously published materials that fall under the fair-use doctrine of the Copyright Act. The company also argued that pre-publication disclosure of the document would violate the First Amendment.

Judge Stanton, however, said First Amendment protection against prior restraint of publication didn't apply in this case because governmental suppression isn't involved.

Carol Publishing attorneys and executives couldn't be reached to comment on the judge's decision.

The judge said that while pre-publication disclosure "might not be justifiable as a general practice, it is appropriate here where New Era has put forth evidentiary grounds for expecting infringement."

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