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### *Speech in Electronic Space*

**A**S USE OF the Internet grows, one thing that's becoming uncomfortably clearer is just how much of existing communications and copyright law depends on the physical limitations of records and publications kept on paper. A copyright infringement suit brought recently in Alexandria, concerning dissemination via the Internet of supposedly secret and copyrighted documents belonging to the Church of Scientology, brings some of these newly problematic issues into sharp relief. It's only one of a string of recent cases that show how much things are changing because of the new medium and how difficult it will be to enforce existing law by existing mechanisms.

In the Scientology case, a federal judge in Alexandria ordered marshals to seize the computer equipment of a man who had allegedly transmitted an unpublished but copyrighted "secret" text about Scientology, containing theological precepts and instructions, to a computer "newsgroup," or public space, from which it was instantaneously copied by thousands of other computer users all over the world. A lawyer for the church told the New York Times, "There are people out there who think the Internet has created a new medium where all the rules go away, and it's not true."

Legally, she's right: Copyright remains theoretically binding on the Internet when you can catch up with it. The trouble is that the Internet is international, and copying materials is effortless, so while individual copyright violators can be punished, that won't necessarily have the effect that copyright is designed to produce. The church of Scientology, for instance, had been able to charge people money for access to its docu-

ments. Now there are so many millions of copies available that they were reported to have clogged distribution outlets in Germany, Finland and Beijing.

Besides being of interest to publishers and authors (and, we might note, newspapers with on-line distribution services, such as this one), the future of copyright in cyberspace is of urgent concern to academics, who had made use in recent years of a special copyright exemption carved out to allow the photocopying of published articles for use in class (as long as no extra fee was charged beyond the cost of reproduction). Academics now want to distribute such work to students electronically, and some want libraries to provide it that way—including, perhaps, the Library of Congress, which is under pressure to get on line quickly with more material. But publishers and the owners of copyrighted material on, say, CD-ROMs are vigorously opposed to measures that could render them possibly unnecessary and certainly financially unviable. They want the copyrights enforced, even as others are calling them unenforceable—and as machines that can "scan" books directly into computers make the pace of reproduction ever faster and more painless.

Some of this will require legislation. The Commerce Department has held sessions on the topic without coming up with a plan, as has the publishing industry. What the courts rule on specific cases may prove less important to the structure of future law than an evolving technological understanding of just what kinds of rules can be imposed with some reasonable hope of results.