



brenda i. speer llc
ATTORNEY AT LAW

COPYRIGHT REVISITED

As appeared in the July/August 2006 issue of *Pikes Peak Writer NewsMagazine*.

QUESTION: Should I get a copyright registration or ISBN for my manuscript before I submit it to an agent or publisher?

ANSWER: I wrote about copyright registration a while back and this time I have some information to add from a publisher's perspective. Pikes Peak Writers member, Sue Hamilton of Dialogue Publishing, Inc., in Colorado Springs, shared her views on these issues with me.

As stated in my earlier column on copyright registration, under United States federal law, copyrights in original works of authorship arise at the moment of creation of the work. **Creation** is the key term here. Creation occurs once the work has been converted from an idea to a tangible expression of that idea, such as a manuscript.

Creation is different from **publication**. Publication means that the work is available to the public. In the most common sense, this means your manuscript has been published as a book and is available to the reading public, usually through sales of the book.

Reputable publishers understand that the copyrights in a work initially belong to the author, as well as the value of a copyright registration for the work. However, publishers prefer to wait until **publication** to secure a copyright registration with the US Copyright Office. It is problematic for a publisher when an author files his or her own copyright registration after **creation** of the work, but before **publication**.

Why? According to Sue Hamilton, the date of the copyright registration becomes associated with the work, because this is the date that must be in the copyright notice accompanying the work. This date can make the work "stale" for a publisher. For example, if you wrote a non-

fiction work and filed a copyright registration for it before publication, then try to shop it to an agent or publisher, you're announcing the age of the work by means of the copyright registration. It can take years to find a publisher for a manuscript. In the meantime, by "date-stamping" your work with a copyright registration, the publisher's impression is that the work is "stale" and may no longer be accurate or saleable.

Additionally, a prolonged lag time from creation to publication is not enticing to the reading public. Publishers and booksellers want to have the year of the copyright registration notice posted in the work to coincide with the year the work is published and released. A current year copyright notice indicates to a reader that the work is "fresh". The reader doesn't care about the legal reality that the work may have been created—and, thus, copyrighted—several years ago: the reader wants to believe the book is the latest, hot read.

Again from a publisher's perspective, a writer also should not secure an ISBN (International Standards Book Number) for a manuscript. An ISBN is a 10 digit or 13 digit number which uniquely identifies a book title. Because the supply of available 10 digit number combinations is running out, all new ISBNs will be 13 digits starting January 1, 2007.

Part of the number sequence of the ISBN identifies the publisher of the book. According to the ISBN Agency which issues ISBNs:

"Once an ISBN publisher prefix and associated block of numbers has been assigned to a publisher by the ISBN Agency, the publisher can assign ISBNs to the publications to which it holds publishing rights. However, after the

brenda i. speer, llc | 719. 381.1708 | fax: 719.466.8098
brenda@blspeer.com | www.blspeer.com

2 NORTH CASCADE AVENUE, SUITE 1100, COLORADO SPRINGS, CO 80903



COPYRIGHT REVISITED – *continued*

As appeared in the July/August 2006 issue of *Pikes Peak Writer NewsMagazine*.

ISBN Agency assigns ISBNs to a publisher, that publisher cannot resell, reassign, transfer, or split its list of ISBNs among other publishers. These guidelines have long been established to ensure the veracity, accuracy and continued utility of the international ISBN standard.”

Because of these restrictions, when an author secures its own ISBN, he or she creates logistical distribution problems for a would-be publisher of the author’s work. A work with an

ISBN that does not belong to the publisher, effectively takes that work out of the publisher’s potential inventory.

It is not only in the publisher’s best interest, but also in the author’s best interest, to leave the securing of a copyright registration or an ISBN to the publisher. Otherwise, the author is doing himself or herself a disservice toward obtaining publication.

© 2006 Brenda L. Speer