

Judges frown gravely on plagiarists

Plagiarize,

Let no one else's work evade your eyes,
Remember why the good Lord made your eyes,

So don't shade your eyes,
But plagiarize, plagiarize, plagiarize—
Only be sure to always call it please
"research."

—Tom Lehrer, *Lobachevsky*

When you take stuff from one writer, wrote Wilson Mizner (though he may well have stolen the line from someone else), it's plagiarism; but when you take it from many writers, it's research."

No one can fault a textbook author who sets out to present a discipline to students, for drawing upon the work of others.

But an author who relies too heavily on a single source may cross the blurry line between scholarship and plagiarism.

From a legal standpoint, if you take too much from any one place, it's not only plagiarism but also copyright infringement, and the penalties are likely to be stiff.

For more than 30 years, *Child Development and Personality* by Paul Mussen, John Conger and Jerome Kagan, has been one of the most widely used college textbooks for child development courses. I used it myself as an undergraduate psychology major in 1963 — it was the book with the bright chartreuse cover.

With success came competition.

And in 1973, when Mussen and his colleagues examined the newly published *Child Psychology*, developed by the Meredith Corporation, they discovered a degree of imitation that went far beyond flattery.

As the facts emerged in the lawsuit brought by the Mussen team and their publisher, Harper & Row, the imitation was hardly accidental.

In 1971, Meredith had decided to enter the child psychology market and identified the Mussen text as the model to be faithfully followed. Meredith proceeded to distribute detailed chapter outlines of the Mussen text to a squad of freelance writers whose job was to write new chapters based on the "model."

Although a psychologist named Brian Sutton-Smith was listed as the author of the text, he was no more than a part-time consultant.

The real authors, if a managed book of this sort can be said to have authors at all, were the freelance writers.

The writers were not professional psychologists — but, with the help of the "model," they didn't need to be.

One of the writers had never taken a course in psychology and was moonlighting from his full-time job as a speech writer for Exxon.

The textbook that emerged was closely patterned after the Mussen text, not only in its overall plan but also on a paragraph-by-

TEXTBOOK CASES



Unfortunately for the 'internalizers' among us, unconscious copying is just as illegal as intentional copying.

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BY ZICK RUBIN

MUSSEN ORIGINAL *The Initial Equipment*

Surprisingly, the newborn is a remarkably capable organism from the moment he begins to breathe. He can see, hear, and smell, and he is sensitive to pain, touch, and change in position. The only sense modality which may not be functioning immediately at birth is taste, but even this sense develops rather quickly. The infant is biologically ready to experience most of the basic sensations of his species from the moment he is born. This is not true of all mammals. Puppies, as the reader may know, are both blind

MEREDITH PARAPHRASE *The Infant's Senses*

From his first breath, the child is remarkably well-equipped for life. He can see, hear, smell, touch, and feel pain. All his senses, except taste, are operating immediately, and even taste develops rapidly.

From his first moment outside the womb, the human infant can feel most stimuli that adults experience. Unlike many mammals—the puppy, for instance, born deaf and blind—the senses of the newborn child are in good working order.

TEXTBOOK COPYCATTING. In a historic case, a federal judge ordered Meredith's copycat psychology textbook off the market. It too closely resembled an earlier Harper & Row textbook. These two passages, to the judge, proved the plagiarism.

paragraph level.

From birth through adolescence, the Meredith book took its cues from Mussen, even as it attempted to disguise the larceny by varying the wording.

Presented with such evidence of piracy, federal judge Richard Owen ordered the Meredith book off the market, and the Mussen team ultimately recovered a substantial sum in damages.

As Judge Owen scornfully declared, "It is hardly an inducement to someone like a Dr. Mussen to do the years of research and scholarship needed to produce an authoritative text if an untrained freelance speech writer for an oil company may paraphrase major portions and make a competing text out of it."

While the Mussen-Meredith case is a blatant

instance of textbook plagiarism, other cases are less clearcut.

In a case brought in 1971 by McGraw-Hill against Worth, involving competing economics textbooks, the judge noted that "certain Spencer passages, read after their McConnell counterparts had been read, did give an impression of *deja vu*, but only in the most general way."

In this and other cases, courts have held that parallels in books organizational schemes are not enough to sustain a finding of copyright infringement. After all, copyright protection does not extend to *ideas* — if it did,

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CALENDAR

February 1

Deadline for nominations for TAA Excellence Awards. Call Norma Hood, (904) 546-5419.

February 1

TAA begins accepting registrations for the Textbook Authoring Workshop to be given on June 8 in Savannah, Georgia. Call NACS, (216) 775-7777.

February 9-11

National Association of College Stores conference on textbooks, Dallas, Texas.

February 15-18

Large Stores Group Steering Committee of National Association of College Stores, Tampa, Florida. Call (216) 775-7777.

February 17-19

The National Association of College Stores' Privately Owned Stores Committee, San Antonio, Texas. Call NACS, (216) 775-7777.

February 29

Deadline for receipt of applications at TAA headquarters of TAA academic project grants. Call Norma Hood, (904) 546-5419.

March 8-10

PSP annual meeting, "Publishing 2001 and Beyond," Washington.

April 1-3

National School Board Association annual exposition, San Francisco, California. Call (703) 838-6722

April 22-26

International Publishers Association Congress, Barcelona.

May 7-9

Association of American Publishers' Higher Education Division annual meeting. Call (212) 265-0200.

June 2

National Association of College Stores Generaalksellers Conference, Chicago. (216) 775-7777, Extension 2226.

June 8

Textbook Writing Workshop by Frank Silverman, Orlando, Florida. Call Norma Hood at (904) 546-9419 for information.

June 9-10

TAA National Convention, Savannah, Georgia. Call Norma Hood at (904) 546-9419 for information.

TAA model contract taking form

The Text and Academic Authors Association is proceeding to develop a model contract on its own after the Authors Guild withdrew from the project as a joint effort.

Bill Pasewark, chair of TAA's contract committee, said many components of the model contract are in place.

"The issue is how we want to structure it so it is of optimum value to TAA members as a reference point for their negotiations,"

Pasewark said.

"The committee settles on a format, we will need to fill in chinks and fine-tune," he said.

Pasewark hopes he contract committee will have a document to propose to the TAA Council this year.

The Authors Guild, meanwhile, is proceeding on its own with a model text materials contract. Also, the National Writers Union is developing a model textbook contract.

Text choice rankles California chief

William Dawson, acting California superintendent of public instruction, is seething over the state board of Education decision to adopt K-8 math series from three publishers.

The state's curriculum development committee had recommended against texts, from Encyclopedia Britannica, Houghton Mifflin and Silver Burdett Ginn.

Dawson said the board had been unduly

pressured by the publishers, and the decision represents "a significant retreat from high standards."

The curriculum committee and an advisory panel both had said the three series were insufficiently rigorous.

In all, the board approved 12 K-8 math programs, which local school districts are considering for fall.

PLAGIARIZE

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scholarship itself would stagnate — but only to the expression of those ideas.

It remains possible that the organization of one book could track the organization of a second book so closely — right down to the B or C heads — that infringement would be found. But the smoking gun of copyright infringement remains verbatim copying or paragraph-by-paragraph paraphrase, not similarity of organization.

What about unconscious plagiarism?

In some celebrated cases of literary theft, the accused author expresses as much shock as anyone else that his words shadow those of someone else. These authors may in fact be telling it as they see it: people can internalize the work of theirs so completely that they later reproduce it — with the best of intentions — as their own.

Unfortunately for the internalizers among

us, unconscious copying is just as illegal as intentional copying. The borrowing of small bits and pieces may be permissible, but the appropriation of larger chunks — whether conscious, subconscious, or unconscious — can be copyright infringement.

From one perspective, all academic authors are plagiarize because they necessarily stand on the shoulders of those who came before them.

"Art is either plagiarism or revolution," Guagin wrote, and few of us are revolutionaries.

But Wilson Mizner may be right about the distinction between "plagiarism" and "research": the formula for scholarship — and the best way to stay clear of copyright infringement — is to gather our material from many sources and to shape it into a product that is distinctively our own.

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