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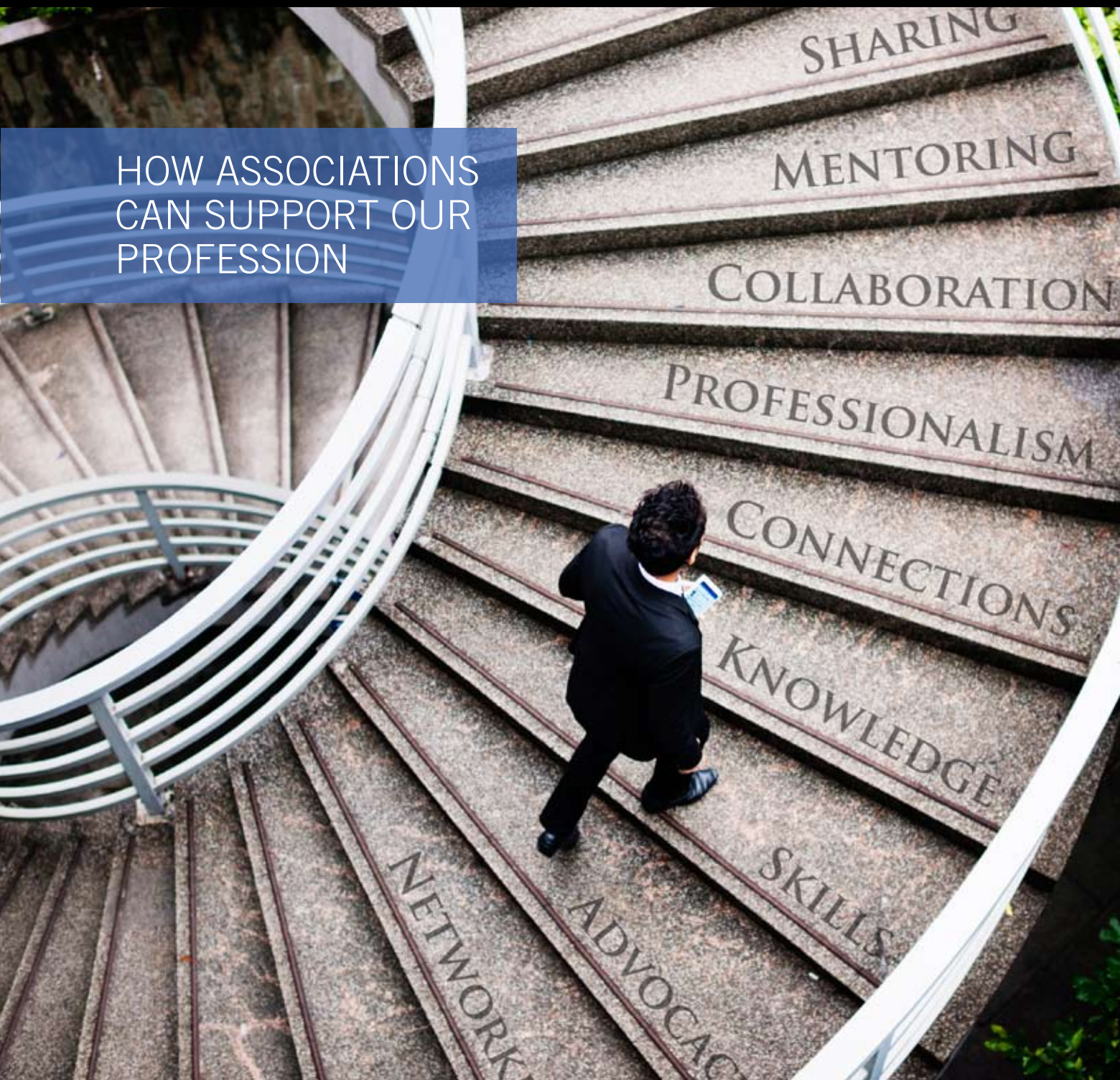
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Tweets and Copyright Law Protection

Who owns a tweet? Do you need permission to retweet a tweet? As with so many areas in copyright, these questions are not easily answered.

BY LESLEY ELLEN HARRIS

As you probably know, Twitter is a free social networking site that allows users to post 140-character messages known as tweets. Each Twitter user's tweets are automatically shared with other users who have signed up to receive tweets from that user; the tweets can also be viewed by visiting the user's site (unless the tweeter is using privacy controls available through Twitter.)

Since its launch in 2006, Twitter has become an enormously popular avenue for sharing information, including political and marketing content. The volume of messages sent on Twitter is staggering. According to Internet Live Stats, somewhere around 500 million tweets are sent each day. In fact, as I write this column at just past noon on a weekday, more than 360 million tweets have already been sent today!

Is a Tweet Protected by Copyright?

My interest in Twitter has nothing to do with numbers; my interest lies in copyright and, specifically, whether tweets are protected by copyright law. A short poem, a sketched image and a document saved on my hard drive are all eligible for copyright protection in the United States, but are my tweets pro-

TECTED AS WELL?

As it turns out, there is not a straightforward answer to this question (no surprise when it comes to copyright matters!).

The U.S. Copyright Act protects literary works. Literary works are defined as "works, other than audiovisual works, expressed in words, numbers, or other verbal or numerical symbols or indicia, regardless of the nature of the material objects, such as books, periodicals, manuscripts, phonorecords, film, tapes, disks, or cards, in which they are embodied."

The law does not protect names of products, services or businesses, titles of works, catchphrases, mottos or slogans, or short phrases. It also does not protect ideas or concepts—in fact, the Copyright Act specifically states, "In no case does copyright protection for an original work of authorship extend to any idea, procedure, process, system, method of operation, concept, principle, or discovery, regardless of the form in which it is described, explained, illustrated, or embodied in such work."

So, where does that leave a tweet? And does it matter if the tweet is 30 characters or 120 characters in length?

Can 11 Words Be Protected by Copyright?

The European Community recently considered a case involving Infopaq International, a company that was summarizing information it gleaned from Danish daily news sources. Infopaq was then e-mailing the 11-word summaries to its customers. Danske Dagblades Forening, representing the Danish news publishers, claimed that consent was required for Infopaq to use those summaries.

In evaluating the claim, the European Union Court of Justice (Fourth Chamber) acknowledged that words themselves do not merit protection. The court found, however, that those 11 words comprised an original work that merited protection. The court held that "... the reproduction of an extract of a protected work which ... comprises 11 consecutive words thereof ... such as to constitute reproduction in part within the meaning of Article 2 of Directive 2001/29, if that extract contains an element of the work which, as such, expresses the author's own intellectual creation ..." is protected.

At least in this case, 11 words were deemed sufficient to convey originality to meet the standard for copyright protection. While this case was not specifically about tweets and not within U.S. legal jurisdiction, the question of length is germane to tweets because of their inherent character limitation.

Is Permission Needed to Retweet a Tweet?

Because of the nature of Twitter, users give implied consent when they tweet, essentially giving others who receive the tweet the right to retweet without additional consent. However, if copyright protection exists in a tweet, then explicit permission would be required before that tweet could be used in any other manner, such as in a book or an article.

It is important to note that under Twitter's terms of service (<https://twitter.com/tos>), a user retains rights to any content he or she tweets. The terms of service also state, in part, the following:

LESLEY ELLEN HARRIS has spent her entire career in copyright law, as a lawyer-consultant, author, and educator. She developed the SLA Certificate in Copyright Management Program in 2007 and teaches the nine courses in the program. She has written four books and regularly blogs at www.copyrightlaws.com in plain English. She tweets at @Copyrightlaws.



By submitting, posting or displaying Content on or through [Twitter], you grant us a worldwide, non-exclusive, royalty-free license (with the right to sublicense) to use, copy, reproduce, process, adapt, modify, publish, transmit, display and distribute such Content in any and all media or distribution methods (now known or later developed).

This license is you authorizing us to make your Tweets available to the rest of the world and to let others do the same. Such additional uses by Twitter, or other companies, organizations or individuals who partner with Twitter, may be made with no compensation paid to you with respect to the Content that you submit, post, transmit or otherwise make available through the Services.

Twitter also includes a copyright policy in its terms of service that pledges to respond when notified of possible copyright infringement and makes clear that Twitter reserves the right to remove potentially infringing material without notice.

Lessons Learned

All of this brings us back to the original question: Are tweets protected by copyright? Also, who “owns” a tweet? Can you re-post someone else’s tweet or re-use it for your own purposes?

As with many issues involving copyright, the answer to these questions is, “It depends.” What we can say is that, while certain tweets may arguably be protected by copyright, we do not need permission to retweet a tweet. The terms of service for Twitter specify that, when you post a tweet on the site, you are authorizing Twitter and others to make your tweet available to the rest of the world at will. But if you want to reproduce a tweet in a printed or electronic book, it’s best to get permission to do so. **SLA**

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accepting of exchanging privacy for services and customization, unless advocacy and education efforts are increased now.” *Gina Neff, associate professor of communication at the University of Washington*

“Like so much in online culture... privacy has no end game; the ‘right balance’ today will not be seen as workable tomorrow.” *David Ellis, course director for the Department of Communication Studies at York University in Toronto*

“My optimistic viewpoint is that, with just a bit more time, those who will attempt to balance the interests of personal privacy and business interests will do so from a more informed perspective, legally, culturally, and with a better perspective on disruption.” *Rebecca Lieb, author and industry analyst for the Altimeter Group*

“I do not believe that there is a ‘right balance’ between privacy, security, and compelling content. This will need to be a constantly negotiated balance—one that will swing too far in one direction or another with each iteration ... Public norms will continue to trend toward the desire for more privacy, while people’s actions will tend toward giving up more and more control over their data.” *Joe Kochan, chief operating officer for US Ignite*

“We have seen the emergence of publicity as the default modality, with privacy declining. In order to ‘exist’ online, you have to publish things to be shared, and that has to be done in open, public spaces. If not, people have a lesser chance to enrich friendships, find or grow communities, learn new things, and act as economic agents online.” *Stowe Boyd, lead researcher for GigaOm Research*

For more information about the study, visit www.pewinternet.org.

Companies More Bullish on Shared Services

Organizations are growing more interested in exploring new opportunities for shared services centers, according

to a survey of nearly 300 executives by Deloitte Consulting.

Shared services centers are created to consolidate operations that are used in more than one part of a business or organization. The Deloitte survey found that many executives are looking to expand the scope of SSCs and make them multifunctional centers that drive added value.

“The days of single-function optimization are over, and companies with established shared services models are now re-evaluating their impact and looking for additional opportunities to add value,” says Susan Hogan, a principal at Deloitte Consulting. “What we’re seeing now is a desire to enable business strategies through shared services, aligning activities with broader organizational goals.”

The Deloitte survey found that organizations using shared services are moving half or more of their full-time employees to an alternate service delivery model. “Even traditional corporate functions, such as Tax, Real Estate/Facilities, and Legal are moving towards a transactional SSC or outsourced model,” the survey report states.

The trend toward multi-function SSCs is most pronounced in organizations that are new to this process. Survey respondents with newer centers had a higher percentage of functions combined in shared services and managed as a single organization.

Perhaps the most important finding is that executives increasingly are viewing shared services as a valuable collaborator with the business, not just a lower-cost alternative. In fact, moving into analytics was noted as the top future goal by over half of the respondents (55 percent).

For more information about the survey, visit <http://www2.deloitte.com/us/en.html>. **SLA**