

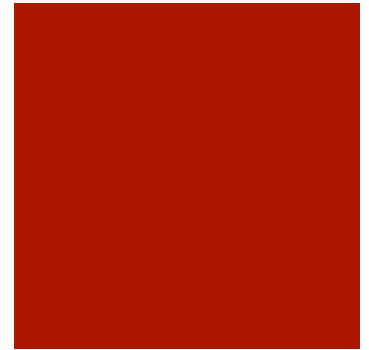


# The Advent of Xerox Photocopier and Copyright

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# Overview

- Argument: The advent of Xerox machines sparked many copyright issues, and the conflicts between publishers and libraries built up to a reexamination of copyright laws.
- Brief history of Xerox machine
- Conflicts between journal publishers and libraries
- “Fair Use”
- Legal proceedings
- Conclusion/further research



# Research Questions

- How do the controversial uses of Xerox machine by educational institutions affect the **publishers**?
- How does “Fair Use” play a role in affecting the **copyright laws**?
- What specific **court cases** had the most influence during this time period?



Xerox 914



Who'd have ever thought of using Presses except Lithography, to produce an excellent finished and business-like copies of the Handwriting, Drawing, etc., is now to be obtained by

## THE BLACK AUTOCOPYIST.

(Patented in the U. S. - 10 Prizes Medals.)

Which is, in the opinion of the leading Journals,

### LITHOGRAPHY SHORN of its DIFFICULTY & LABORIOUS OPERATIONS.

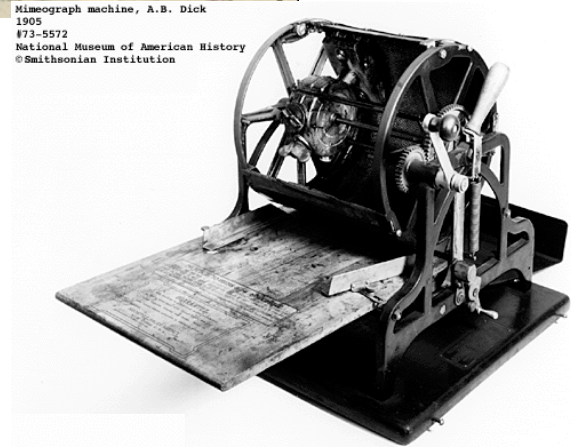
**50,000**  
**AUTOCOPYISTS**  
ARE ALREADY BEING  
USED

By Wholesale Agents, Bankers, For Copying  
 Architects, Engineers, etc.      Instructions, etc.  
 Clergymen, Schoolmasters, etc.      Manuscripts, Books, Articles, etc.  
 School and Home Teachers, etc.      Short-hand, Maps, Diagrams, Lists, Papers, etc.  
 Contractors, Bookbinders, etc.      Designs of Sewing Machines, Stoves, etc.  
 Lawyers, Accountants, etc.      Bills, Legal Forms, Balance Sheets, Notices.  
 Writers, Bookkeepers, etc.      Receipts, Bills of Fare, etc.

**ALL WIDE-AWAKE PERSONS** desiring efficient copies in business-like style,  
 If you send your sheet a poor and cheap looking character, but will at  
 once consign it to the paper basket, assuming that its contents  
 are as poor and uninteresting as its appearance.

Wholesale - See Price List.      Patent Pending.      "Trade Mark"

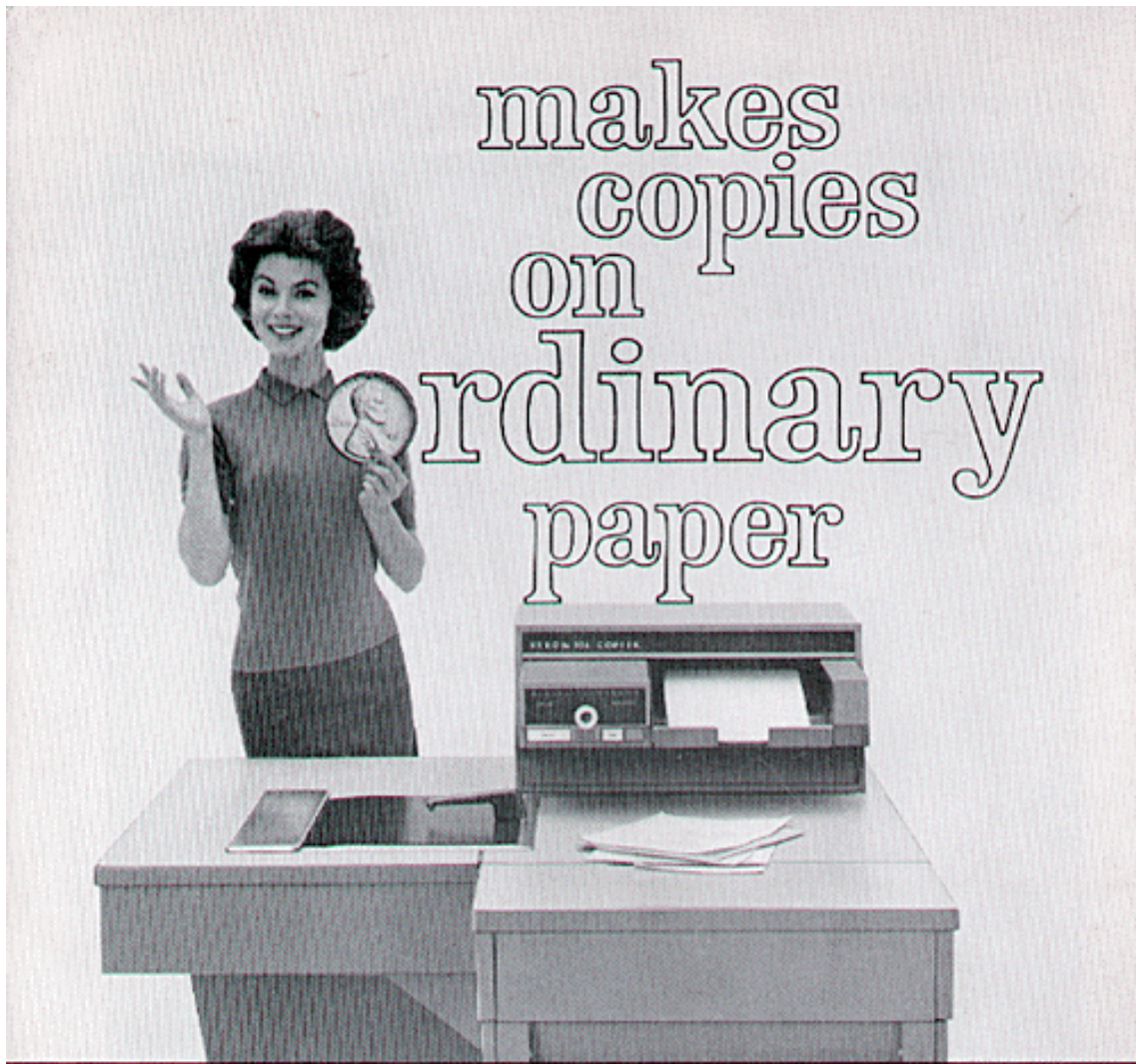
Mimeograph machine, A. B. Dick  
1905  
#73-5572  
National Museum of American History  
© Smithsonian Institution



it's easy to make **contoura** copies:

1. Plug **CONTOURA** into an ordinary A.C. or D.C. 110/120 volt electric socket. Place a piece of specially treated **CONTOURA** photograph over the area to be copied.
2. Place the **CONTOURA** on top of the photo paper.
3. Press the switch on for about ten seconds and off - and the exposure is made!
4. The exposed sheet of photo-paper is then put in the usual **CONTOURA** envelope, for developing at your convenience.

**negative** + **positive**  
**contoura** makes either or both!



makes  
copies  
on  
ordinary  
paper



The first successful commercial plain paper copier which in 1959 revolutionized the document-copying industry.

**Supplies cost about 1¢ per copy**

with a Xerox® 914 Office Copier. No wet chemicals, nor expensive coated papers are required, and there are no exposure adjustments. With this copier you make copies directly onto ordinary paper (plain or colored) or selected offset masters.

**Copies are as good as originals**

So superior is the quality of reproduction that many people say copies look better than the original. The Xerox 914 copies anything the eye can see; copies all colors—even reds and blues—with sharp black-on-white fidelity. And without damage to originals.

**Versatile and fast**

Copies in seconds anything written, typed, printed, stamped, or drawn. Business, industry, and government use it to copy letters, documents, drawings, financial statements, reports, freight bills, charts, articles, advertisements, even pages in bound books.

**What users like about the 914 . . .**

"Automatic, copies everything."  
"Superb quality of copy." If you are spending \$50 or more per month for copying supplies, a Xerox 914 can be of real benefit to you. Write to HALDOR XEROX INC., DEPT. 9X-278, ROCHESTER 3, NEW YORK.

**NEW XEROX® 914**  
**OFFICE COPIER**

“Whereas Caxton and  
Gutenberg enabled all men  
to become readers, Xerox  
has enabled all men to  
become publishers”

- Marshall McLuhan

“What Hath Xerox  
Wrought” (Time 1976)



# Publishers' Reactions

- The Xerox machines have not been a threat to publishers of books, magazines, and newspapers.
- The greatest impact of the photocopier has been in the scholarly journal industries



[23] *“It’s the new Copyright Compliance Center.  
We used to call it a library.”*



According to the CICP survey, “the total annual copying of published material...is very largely library copying”.



# Conflicts Between Journal Publishers and Library

- Libraries and educators have felt a need to reproduce copyrighted works for their serious scholarly and research purposes
- Publishers: Massive photocopying violated copyright and threatened to reduce subscriptions of journals
- Libraries: Photocopying is essential to providing information







# Fair Use

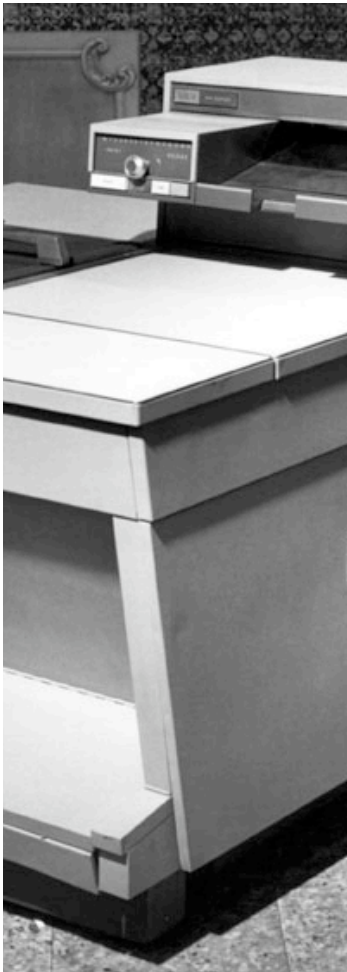
The main exception to copyright  
Education/ research/ non-profit etc.



# What is Fair Use?



- The **fair use** of a copyrighted work, including such use by reproduction in copies or photo records or by any other means specified by that section, for purposes such as criticism, comment, news reporting, teaching (including multiple copies for classroom use), scholarship or research, is not an infringement of copyright.



# What is Fair Use?

- the purpose and character of the work, including whether such use is of a commercial nature or is for nonprofit educational purposes;
- the nature of the copyrighted work;
- the amount and substantiality of the portion used in relation to the copyrighted work as a whole; and
- the effect of the use upon the potential market for or value of the copyrighted work.

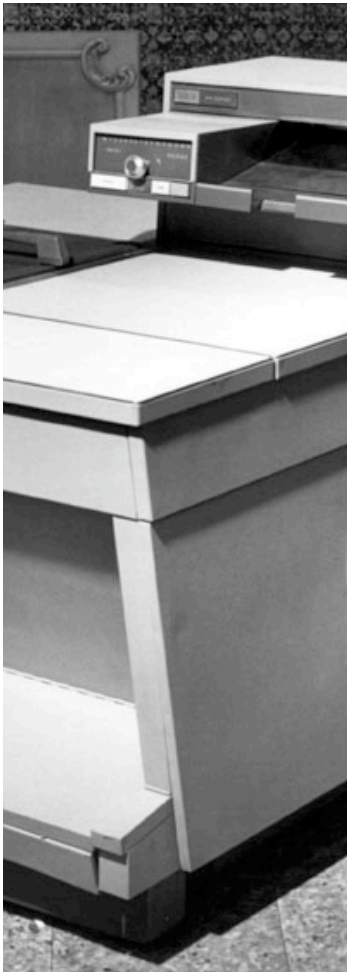
“It has become dramatically easier to make copies of printed materials since the advent of the Xerox 914 copier in 1959.”

--S.J. Liebowitz

*COPYRIGHT LAW, PHOTOCOPYING, AND PRICE  
DISCRIMINATION*

# Williams & Wilkins Co. v. United States (1973)

- Photocopying → duplication of articles & excerpts  
→ publications
- The company sued the U.S. government
- ***National Institutes of Health and National Library of Medicine had duplicated a total of 2.2 million pages from all sources in 1970 alone.***
- The Government contended that the photocopying amounted to "fair use"





## Other Court Cases

- Folsom v. Marsh (1841)
- Macmillan Co. v. King (1914)
- Encyclopedia Britannica Educ. Corp. v. Crooks (1978)
- Basic Books. Inc. v. Gnomon Corp. (1980)
- Addison-Wesley Publishing Co. v. New York Univ. (1983)
- Harper & Row Publishers Inc. v. Nation Enters (1985)



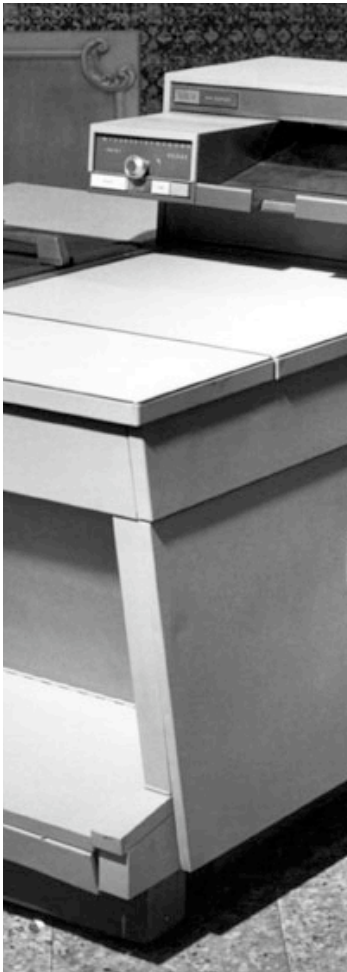




## Other Court Cases

- First Comics. Inc. v. World Color Press, Inc. (1990)
- Basic Books Inc. v. Kinko's Graphics Corp. (1991)
- Los Angeles News Serv. v. Tullo (1992)
- Bridge Publications Inc. v. Vien (1993)
- Union v. Texaco Inc. (1994)

# Provisions of the 1976 Copyright Act Affecting Photocopying



- Copying **for teaching purposes**
- Specific **exemptions** for photocopying by libraries and archives
- Revision due to:
  - Technological developments
  - Statute needed to be amended



# 1976 Copyright Act (Revised)

- Fair use and first sale doctrines codified
- Copyright extended to unpublished works.
- Section 108 –
  - “scholarship, preservation, and interlibrary loan under certain circumstances.”





# Problem



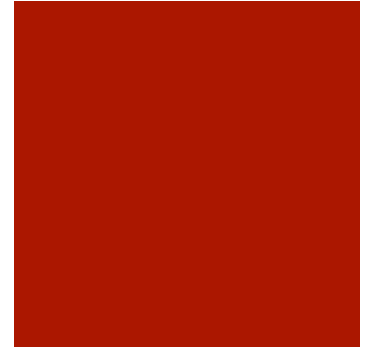


## Conclusion

-The machines exerted pressures on the government to make extensions and adjustments to the copyright laws mainly the Copyright Act of 1976.

# Further research

- More details on the definition of “Fair Use”
- Explore the question, “Which would suffer most, research or publishing, if photocopying were not available?”



Thank You!

