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The Impact of Current Copyright Law

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The Impact of Current Copyright Law

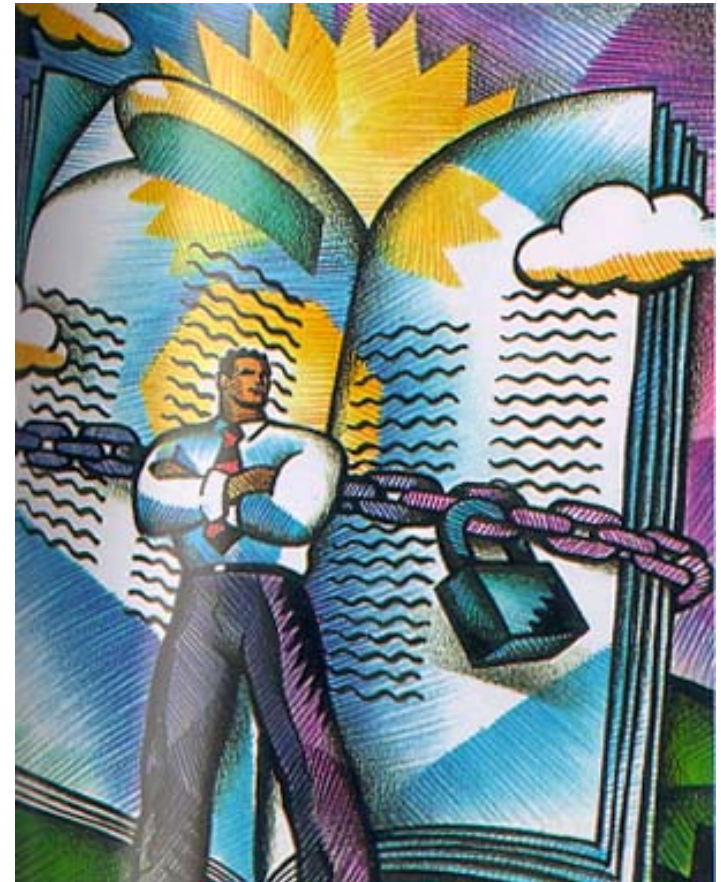
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Unconditional Copyright

- “Limited” term of monopoly to promote progress
 - Repeatedly extended 1790–1998 (from 28 to 95 years)
- 1870–1976/1992, copyright required renewal
 - **1960 – research showed 15% of copyrights renewed**
 - 1976 – 75 years (28 + 47) or life of author + 50 years
 - 1992 – Automatic renewal (1964–1977)
- 1998 – 95 years or life of author + 70 years
 - Retroactive to 1978
 - 2003 Supreme Court upheld



Current State of Absurdity

- **92% of the books ever published are orphans**
 - Still in copyright, but out of print
 - Neither generating revenue nor easily accessible
 - Permission required to digitize & provide access
- **2004 Kahle v. Ashcroft challenge U.S. copyright**
 - No records of copyright ownership
 - Denies public access to orphaned works without providing any benefits



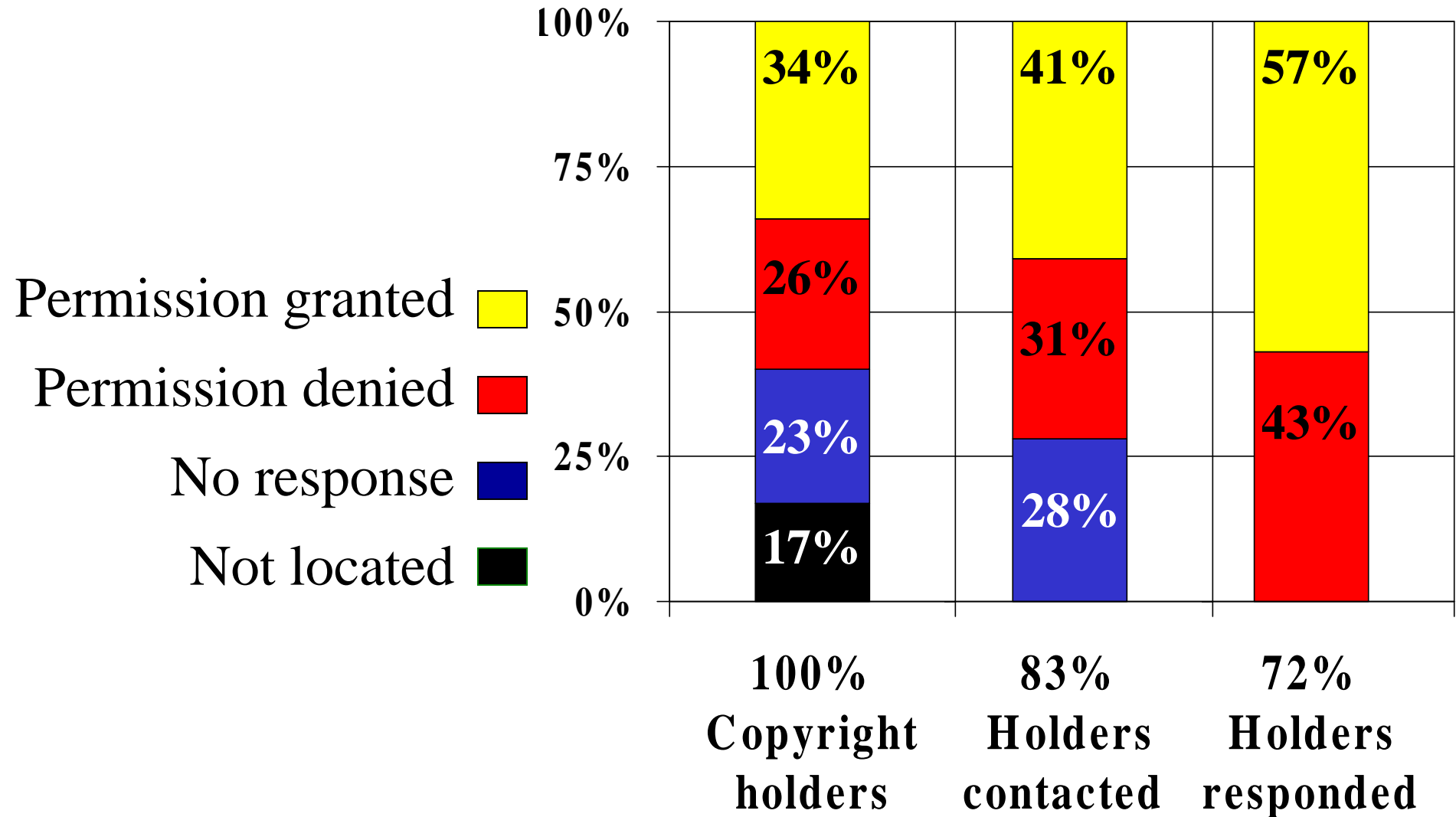


Feasibility Study 1999 – 2001

- Random sample of books in library catalog
- 96% in copyright
- Sent 1st & 2nd letters requesting non-exclusive permission to digitize & provide open access
 - Using intermittent labor, follow up letter often delayed
- 34% permission granted
 - Many publishers applied access restrictions

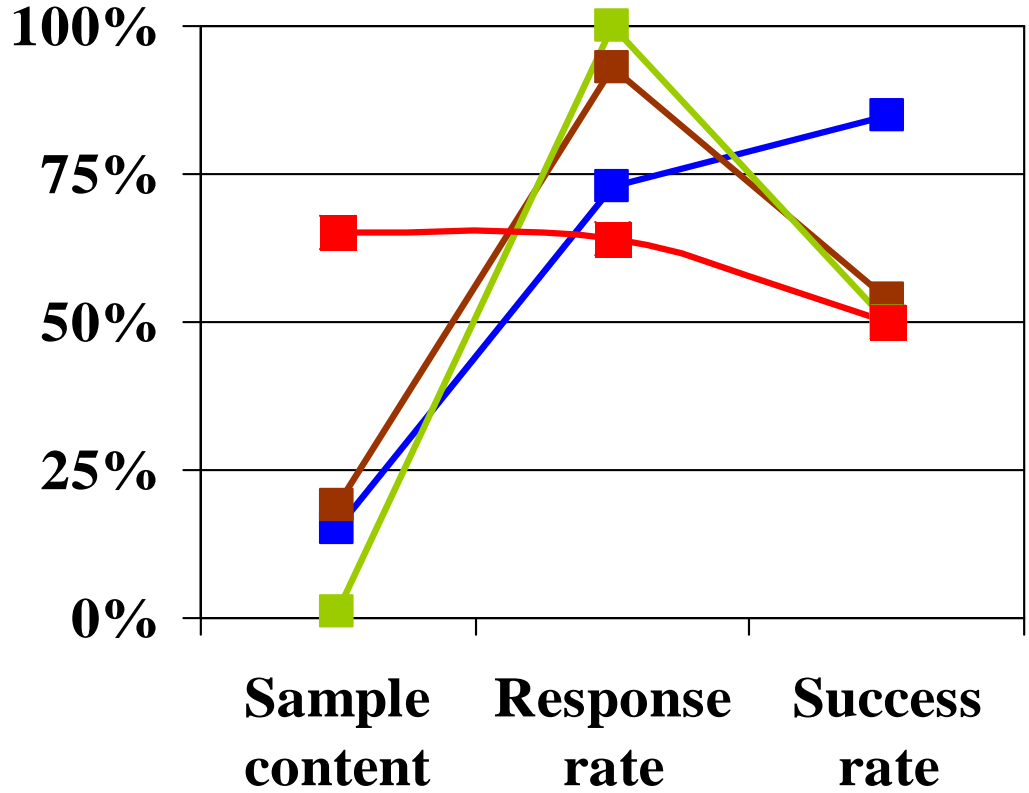


Feasibility Study Success Rates



Analysis by Publisher Type

- Scholarly associations ■
- University presses ■
- Commercial publishers ■
- Special publishers ■



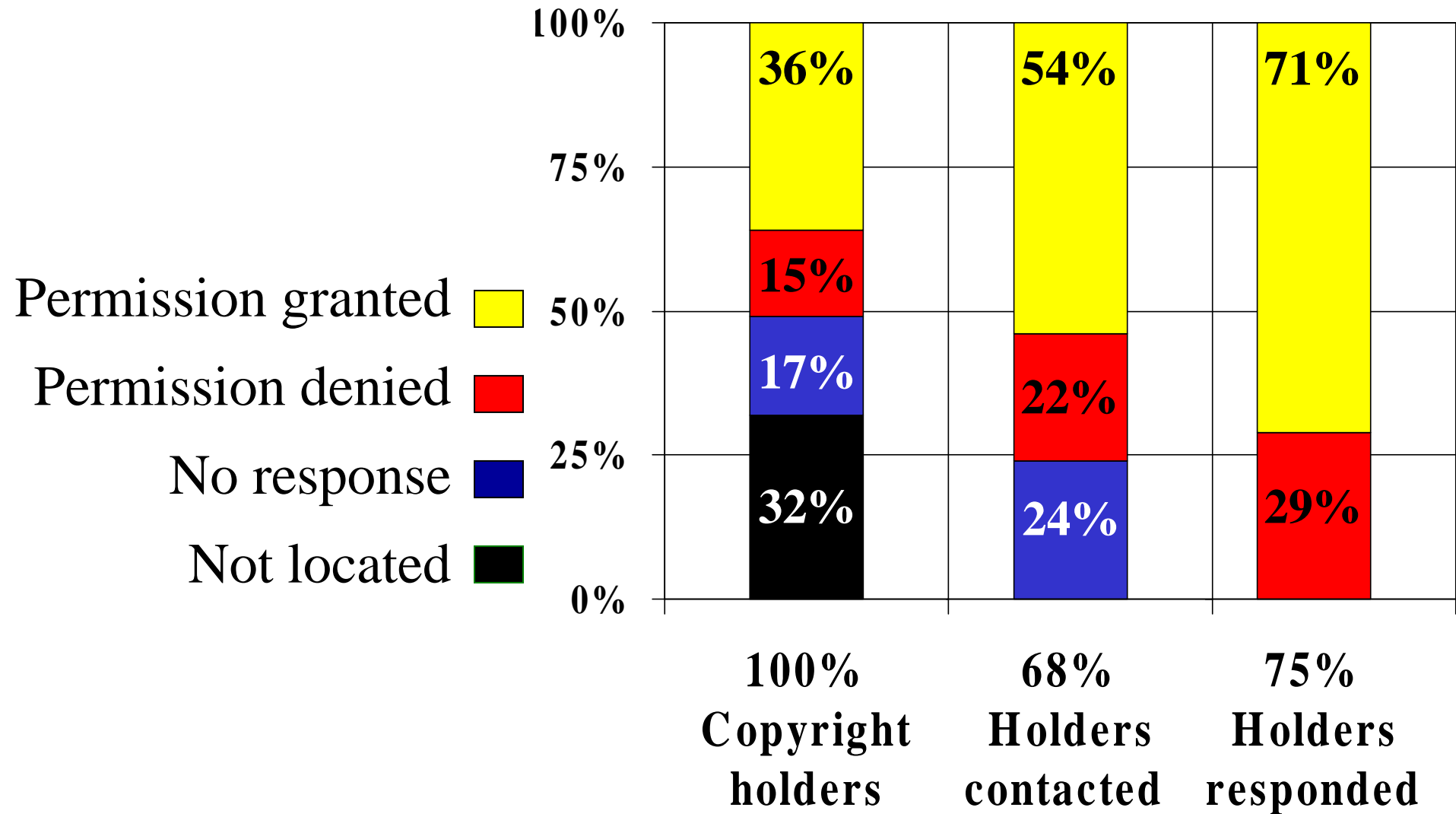
Feasibility study
Success rate based on responses

Posner Study 2003

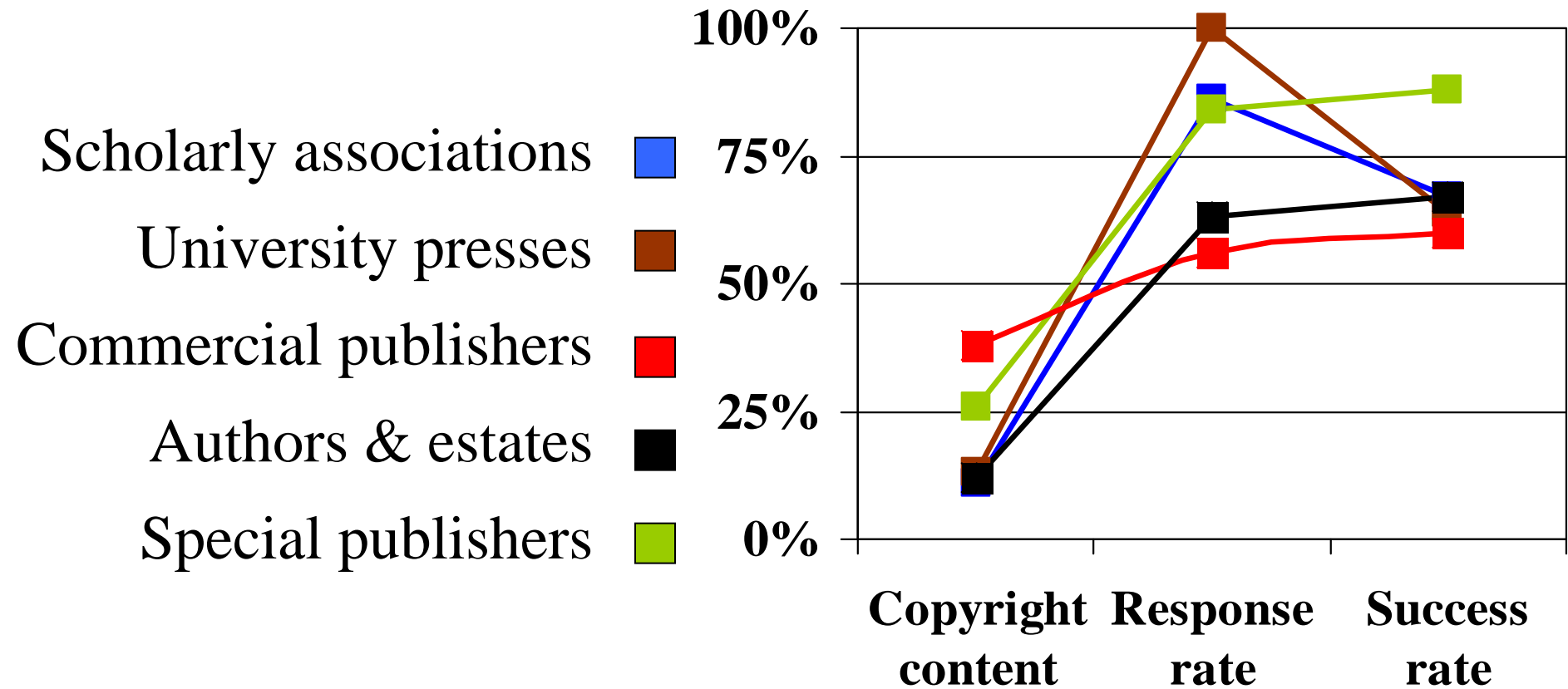
- Fine & rare books
- 27% in copyright
- Sent request letter + prompt follow up call or email
- Dedicated labor May–October 2003
- 36% permission granted
 - 48% of books
 - 2% of publishers applied access restrictions



Posner Study Success Rates



Analysis by Copyright Holder Type



Posner study

Success rate based on responses

Transaction Costs

\$78 per book/volume

\$ 10,808 FTE labor

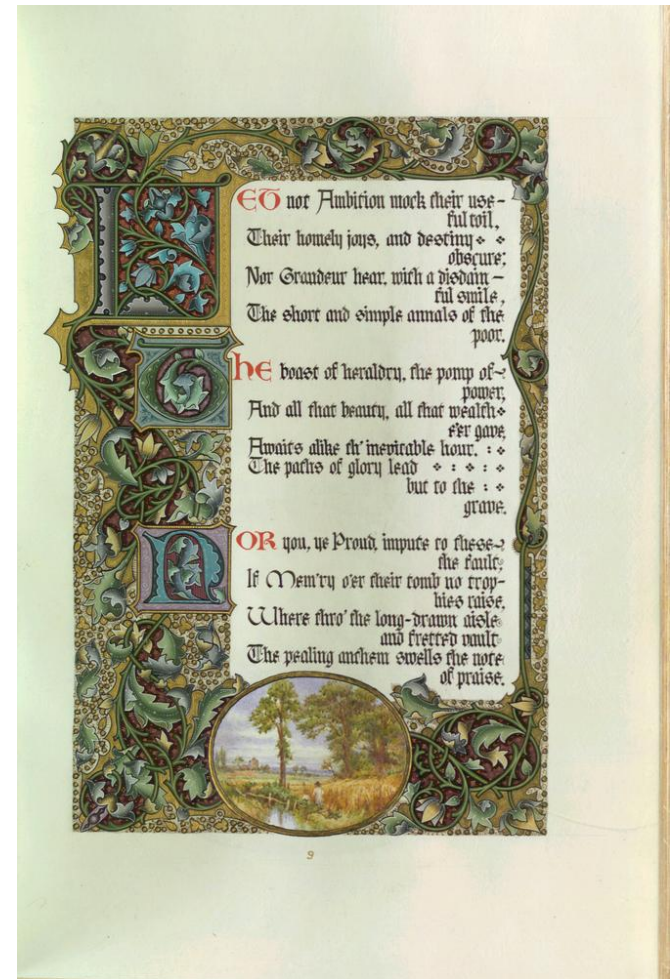
\$ 379 Phone calls

\$ 100 Paper & postage

\$ 11,287 TOTAL

May 2003 – October 2003

Does not include legal fees,
administrator time, or cost of Internet
connectivity or database creation.

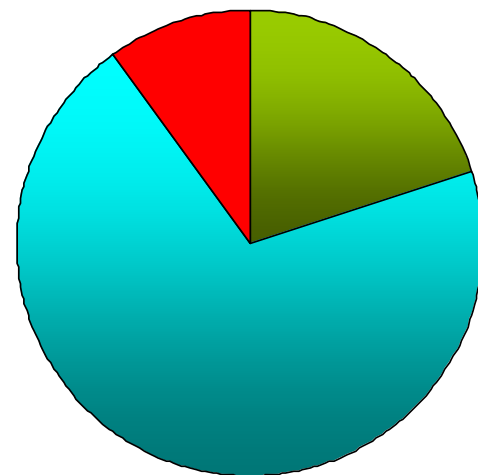


**174 letters & 159
follow up calls or email**

Million Book Project

2002 – 2007

- Collection of collections
 - Copyright focus:
Books for College Libraries
- Send request letter + prompt follow up call or email
- Dedicated labor beginning Nov 2003

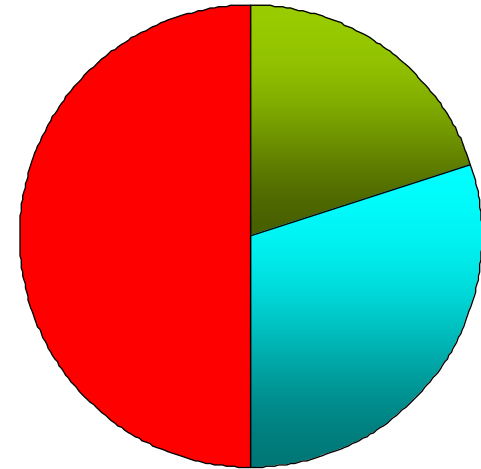


Changed Strategy 2003

- *Books for College Libraries*

- 50,000 titles
 - Experiments reduced cost from \$2.12 to \$1.41 per title to create list
- 5,600 publishers

- **Shifted from per title to per publisher approach**



-  In Copyright
-  Public Domain
-  Indigenous Materials in India & China



Request Letter

- **Educate** about open access & user behavior
- **Ask** for non-exclusive permission to digitize & provide open access to
 - **All out of print, in copyright titles**
 - All titles published prior to a date of their choosing
 - All titles published # or more years ago
 - List of titles they provide
- **Assure** – follow standards & laws; limit print & save
- **Give** – images, metadata, & OCR → \$\$\$

Preliminary Statistics

- Permission granted ■
- Permission denied ■
- Still negotiating ■

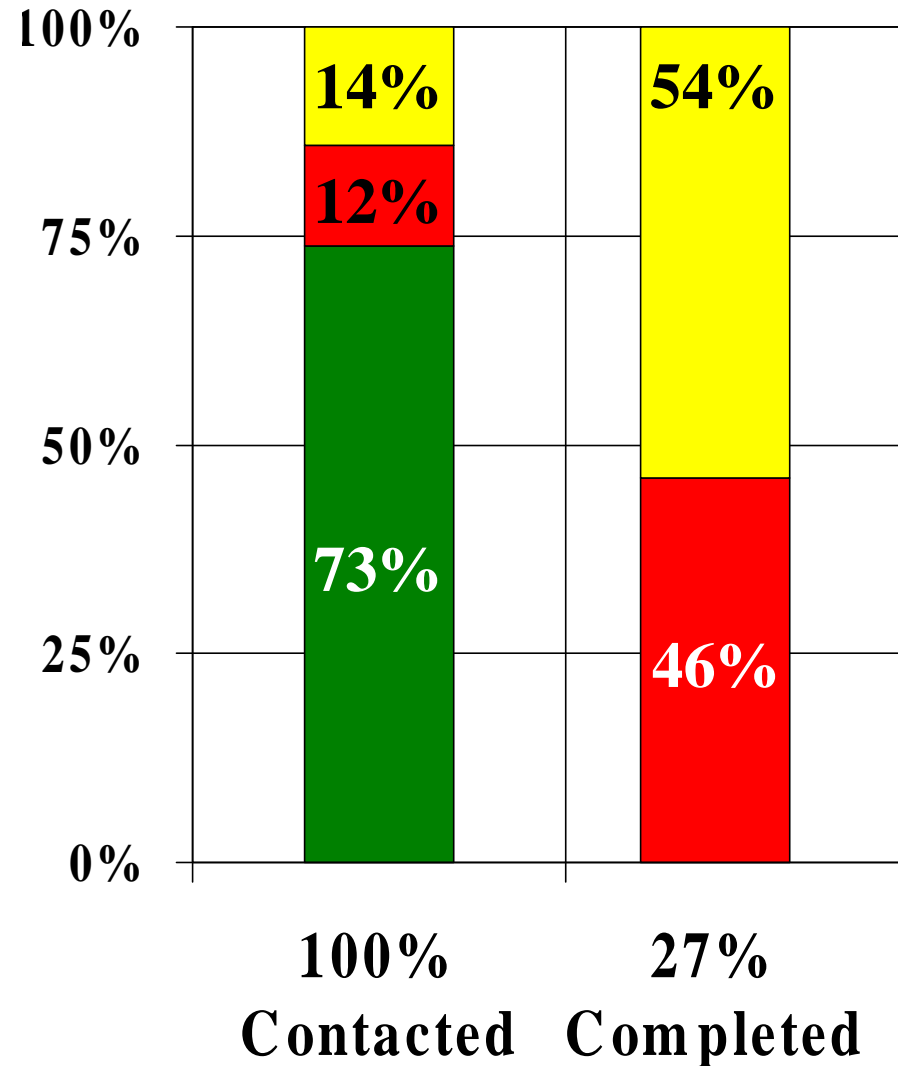
371 publishers contacted

14% success rate

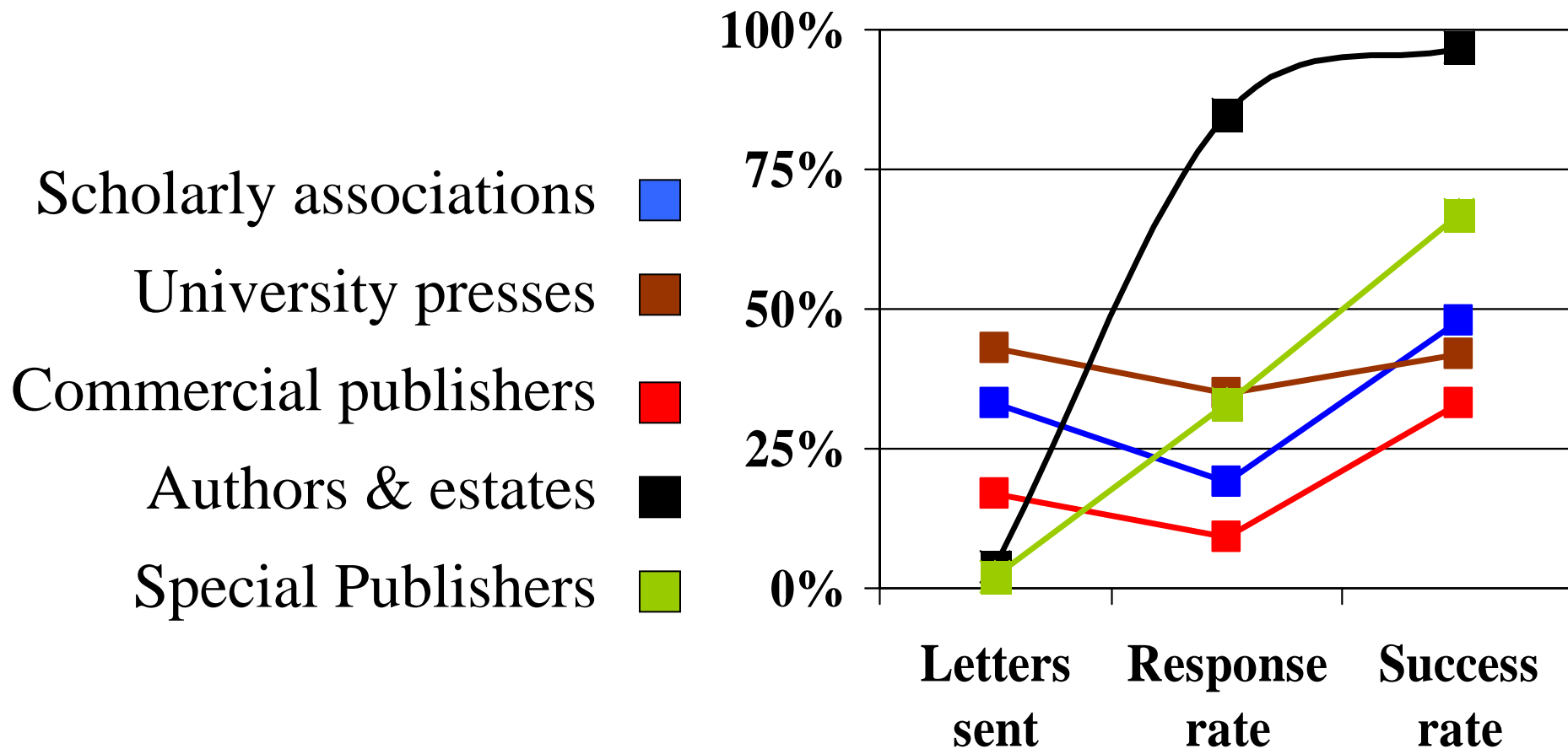
46,700+ titles

Need 18% success rate

**with BCL publishers granting
permission for 500 books each**



Analysis by Copyright Holder Type



Million Book Project

Success rate based on responses

Preliminary Transaction Costs

✂ **\$0.41 per book**

\$ 18,846 Labor

\$ 323 Follow up

\$ 194 Paper & postage

\$ 19,363 TOTAL



Scanning center in Hyderabad, India

Nov 2003 – Jun 2004

Does not include legal fees, administrator time, or cost of Internet Connectivity or database creation.

**540 letters & 359
follow up calls or email**



Problems Seeking Permission

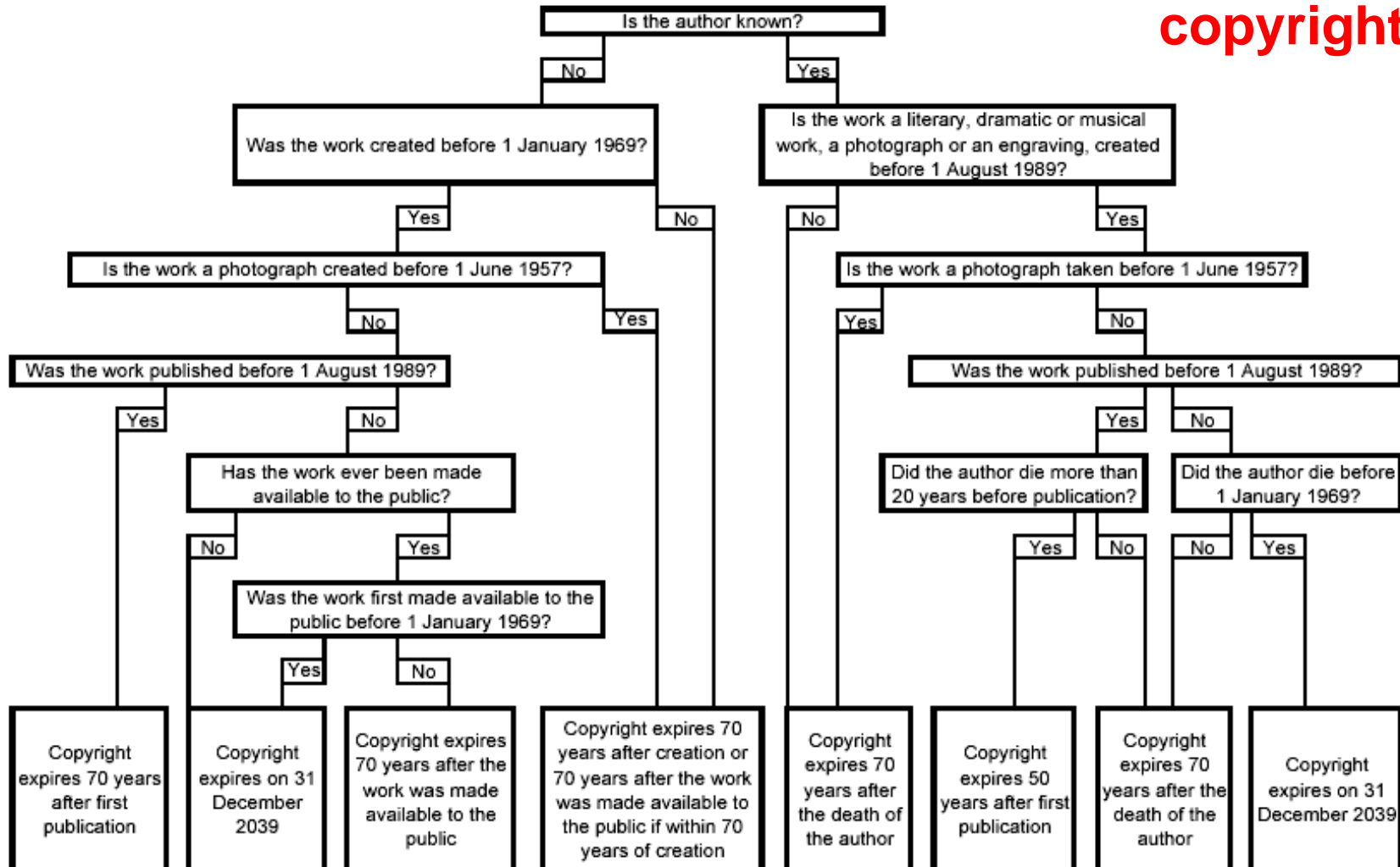
- Identifying & locating copyright holders
 - Information not maintained by U.S. Copyright Office
- Publishers
 - Afraid of open access & lost revenue
 - Don't know what they published
 - Don't know what rights they have
 - Don't have the resources to figure it out
 - Involved in other projects – perhaps exclusively
 - Copyright reverts to author when book goes out of print

Learning Copyright Laws

DURATION OF COPYRIGHT - Literary, dramatic, musical and artistic works

[from "Copyright for Archivists" by Tim Padfield]

**Example UK
copyright law**



Experiment: U.S. Office of Copyright

- Expedite identifying & locating copyright holder
 - Asked to identify & locate copyright holders of 7 titles
 - \$150 fee – charged 3 days after request
 - Estimated 4 to 6 weeks
 - Nudged at 8 weeks
 - Took 15 weeks to respond
 - Confirmed one citation



Scanning center in Beijing, China

Experiment: Authors Registry

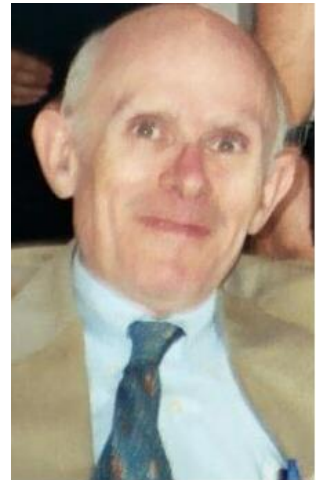
- Expedite locating copyright holder
 - Asked to locate 25 authors or estates
 - \$2.50 fee per author/estate found
 - Same day response
 - Found 52%
 - 92% accuracy rate
- Authors likely to grant permission, but transaction cost per book is high



Scanning center in Hyderabad, India

Experiment: Renewal Databases

- Catalog of Copyright Entries (Digitized at Carnegie Mellon)
 - <http://onlinebooks.library.upenn.edu/cce/>
- Library of Congress Copyright Catalog
 - <http://www.copyright.gov/records/cohm.html>
 - To find renewals 1973–1978 must consult another source for registration numbers
- **Lesk Copyright Renewal Records**
 - <http://www.scils.rutgers.edu/~lesk/copyrenew.html>
 - Functionality created & enhanced by Michael Lesk





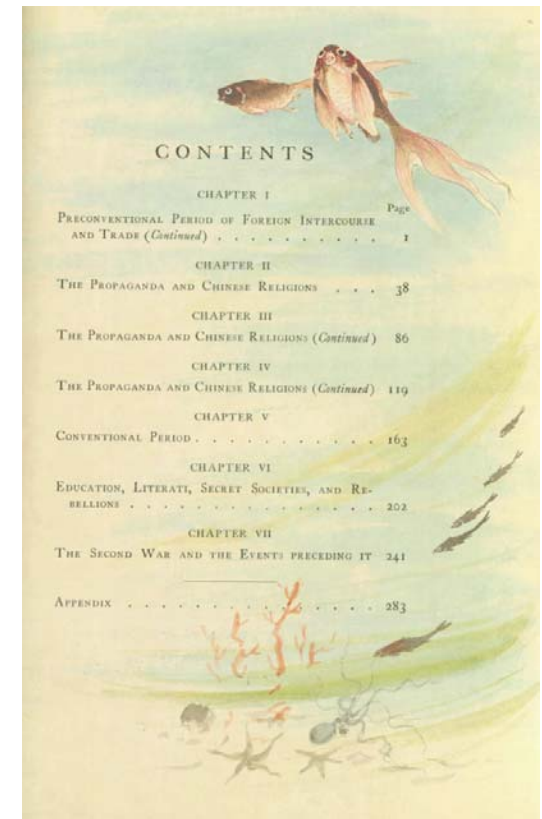
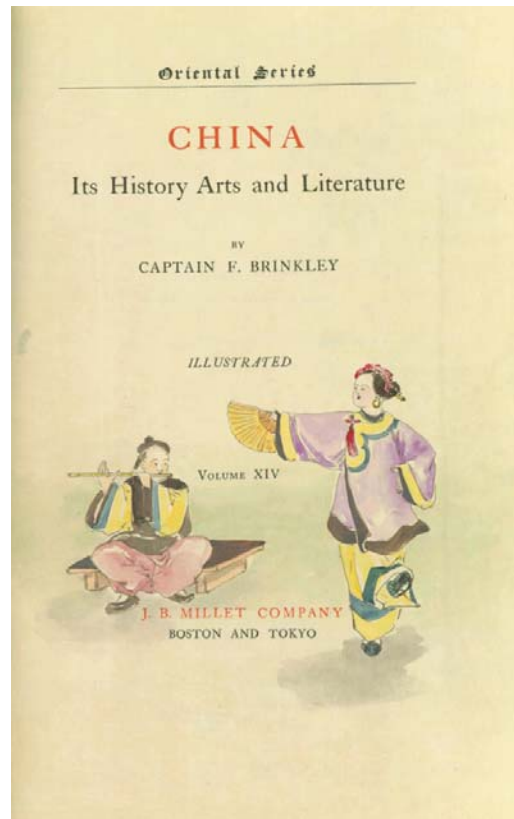
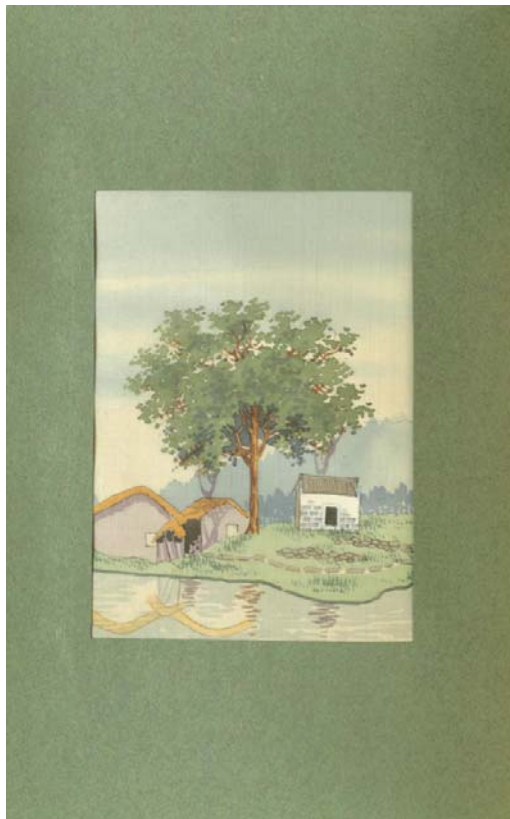
Next Steps

- Partnerships pending
 - **Vendor to provide print-on-demand service**
 - U.S. Office of Copyright to study impact of CTEA
- Standards & best practices
 - NISO solicited proposal to develop copyright metadata
 - Lead best practice for acquiring copyright permission
- Research
 - Continue data gathering & analyses
 - Survey participating publishers' views of open access

How You Can Help

- **Encourage scholarly associations & university presses to participate in Million Book Project**
- **Support Public Domain Enhancement Act**
 - <http://www.publicknowledge.org/content/legislation/pending-legislation-pdea>
- **Support Kahle v. Ashcroft copyright challenge**
 - Submit examples of how barriers to using out of print books burden your work <http://notabug.com/kahle/>

Thank you!



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