APS Intellectual Property Rights Policies
The American Phytopathological Society - 3 September 1999

PREAMBLE
The United States Constitution promotes the furtherance of science by granting scientists the exclusive right to their own writings and discoveries. This protection ensures appropriate distribution, use, and financial recompense for copyrighted works. Copyright protects expression (not ideas or facts) including publications, pictures, graphics, performances, recordings, databases, and software. All media are protected, including digital and online.

APS is a scientific publisher. It publishes information concerning plant pathology, related subjects, and the society itself through copyrighted journals, books, image collections, press releases, reports, meetings, digital media, APSnet, and other vehicles as warranted. In addition to the service these publications provide, they also generate the bulk of the society’s revenue. Although nonprofit, APS derives over 80% of its total income from the sale of its copyrighted materials. This revenue funds many activities of the society in addition to the publications themselves.

In 1999, the ad hoc Intellectual Property Rights Committee (IPRC) was charged to advise APS and its relevant publication boards regarding appropriate policies for copyright and for use of the society’s copyrighted holdings. The committee was to take into account the societal goals and objectives defined in the society’s strategic plan, namely, to "become the premiere resource for plant health information and knowledge dissemination (and) the foremost internet resource for all aspects of plant health." In addition, the policies were to assure reasonable access to and use of materials by both their original contributors and the society’s members and clientele while protecting or enhancing APS’s financial health. Intellectual property rights policies will be monitored and modified periodically by the APS Publications Board as appropriate.

INFORMATION FOR AUTHORS
• As a general rule, APS will publish only original new material that has not been previously published. However, informal distribution of preliminary information, such as on personal web sites, is allowed and, unless on a bona fide peer-reviewed site, is not considered publication. Subsequent to publication, authors may post abstracts or summaries of their work online. In cases where the final publication is available on the APS web site, these summaries or abstracts may be hyperlinked directly to the complete document or file. Beginning in 2002, authors may purchase PDFs of their journal articles at prices based on the length of the article. These PDFs may be posted in open areas on their university or company websites.
• To enable publication, authors are required to transfer copyright of their work to APS. This applies regardless of the type of material or of the media in which it is produced. Having copyright accomplishes three things: 1) it makes it explicitly clear that APS has a right to publish the material; 2) it allows APS to act as a central clearinghouse for all permissions to reproduce the material; and 3) it assures the financial integrity needed to sustain APS’s
publications programs. Materials generated as part of their work by employees of the United States government are published in the public domain.

- As stated on all APS copyright transfer forms, an author’s original materials may continue to be used in the author’s own other personal works and in other works of the author’s institution without restriction. In these cases, authors need obtain APS permission only when publication of the new work may materially impact sales of APS’s existing publication.
- APS has authority to include all materials for which it has acquired copyright in the publication to which they were originally submitted, in all future editions and adaptations of that publication, and in any other new publications or media of the society that it deems appropriate. If substantial portions of any publication are used in a new publication or medium, either the original author or the volume editor will be notified.

INFORMATION FOR USERS

General Provisions

- All APS copyrighted materials must be used in accord with current United States and international copyright law except as specifically stated or licensed otherwise by APS. These copyright restrictions apply to publications in all media including print, photocopy, photographic, digital, and online.
- APS copyrighted materials may not be duplicated in any way without written permission except as provided for by fair use. In determining fair use, these four criteria must all be appropriately satisfied: 1) the purpose and character of the use, including whether such use is of a commercial nature or is for nonprofit purposes; 2) the nature of the copyrighted work; 3) the amount and substantiality of the portion used in relation to the copyrighted work as a whole; and 4) the effect of the use upon the potential market for or value of the copyrighted work. APS considers limited distribution of limited amounts of material for free, educational use to be fair.
- APS has sole authority to grant permission for use of its copyrighted materials to parties other than the author or the author’s institution. APS acts as a central clearinghouse in this regard without requiring further permission from its authors.

Reproduction of Printed Materials

- Beyond what fair use allows, APS allows reproduction of complete individual journal articles and book chapters upon receipt of established reproduction fees.
- Currently, permission to reproduce materials is obtained either in writing directly from APS or by a given publication’s registration with the Copyright Clearance Center (CCC). Beginning in 2004, APS also offers individual documents via a document delivery system on APSnet. Individual articles are priced at $27 for Plant Disease and Phytopathology and MPMI. In lieu of this, APS PRESS and the Publications Board are being asked to evaluate the continuance of APS’s agreement with CCC, as well as to establish what constitutes appropriate pricing for these items. Pending further financial analysis, fees may be set at higher amounts per unit per copy.
- Rights for complete journal articles are granted gratis for use in teaching. APS PRESS may or may not charge for use of its materials in teaching depending on the extent of the request and whether the materials are from works intended as textbooks or course references.
Licenses for Digital Materials

- All APS copyrighted materials in digital form, whether fixed or online, are governed by specific license agreements. Fixed digital publications are those whose method of distribution is by delivery of a physical object such as a CD-ROM. Online digital publications are those whose delivery is by Internet or other computer network.
- Various license types exist, such as single user, member, institutional, and network. Member and single user licenses typically identify the licensee as the individual person who purchased the work or initiated its purchase through their institution. Institutional and network licenses allow use to multiple users of either a limited number or limited distribution area. Network and institutional licenses may allow access via the Internet or other external network or via an organization’s own local area network.
- In general, licenses governing APS digital materials prohibit copying, sharing, or distributing electronic files in whole or in part. However, certain digital materials like the APS Digital Image Collections are published with the intent of providing source material for use in projects of the individual licensee and are priced accordingly. Such use is allowed only for the duration of a valid license period and is limited to the licensee’s personal, noncommercial work and teaching. Use by persons or institutions other than the licensee or by the licensee in commercial works requires written permission from APS and payment of any associated fees.
- All APS licenses for digital materials prohibit the user from posting any of its content on the Internet or other external network. However, APS will grant written permission for teaching purposes provided the material is posted only during the duration of the associated class and access is restricted to the class’s students.
- Most online publications requiring fees are licensed by an annual subscription. Such subscription typically allows access to the current year’s edition and any available back editions. During their subscription period, users may make permanent copies of the material for their ongoing personal use, but not for distribution. The APS Publications Board is being asked to examine this policy more closely in regard to *Phytopathology*, *Plant Disease*, and *MPMI*.

Permission to Reproduce Materials in Other Works

- Over time, APS PRESS has amassed an extensive collection of plant disease materials. In so doing, APS has become a convenient source of images, figures, tabular material, etc. for use in publications of other organizations. Through its members and publishing efforts, APS adds value for these organizations by eliminating the considerable time and expense needed to locate or generate images and other materials, and the additional time needed to screen, select, and verify quality.
- Except when stated otherwise, parties wishing to reproduce materials copyrighted by APS must obtain permission to do so in writing.
- Typically, APS *does* grant permission for use of its materials. Permission is contingent upon proper crediting of the source (including for an image the name of the contributor), and reference to APS’s copyright ownership, and upon payment of any established permission fees. APS grants use regardless of the publication or source seeking permission. However, APS may disallow use if, in its view, the quality of reproduction is not sufficient, the
materials constitute an unreasonable portion of the other work, or the use may be contrary to the purposes of APS.

- A separate permission fee is required for each publication in which an image, figure, or table may appear; for each edition of the publication (revision, translation, etc.); and for each medium a publication may be published in (print, CD-ROM, online, etc.). Current charges are as follows: nonprofit and educational publishers, $50 per item per use or $150 for unlimited use throughout all editions of a given publication; for-profit publishers and companies, $75 per item per use or $200 for unlimited use throughout all editions of a given publication, plus production charges for providing source material. Fees may be waived by the chair of the APS Publications Board or by the editor-in-chief of the specific publishing area. Depending on the item, fees are reviewed periodically either by APS PRESS or by the Publications Board with the Financial Advisory Committee’s oversight.

Ver6; May 2013