



Two Minute Challenge: Intellectual Property Copyright

A scientist is invited to give a talk at a conference, sponsored in part by a US scientific organization and in part by a non-US scientific society. A condition of participating is to upload a manuscript containing the essence of the talk prior to the conference. Three months before the conference, the scientist writes the paper, puts it into the template specified by the sponsors, fills out a copyright transfer agreement (transferring copyright to the US scientific organization), and uploads the paper. The paper is accepted.

One month before the conference, the non-US organizers send an email saying, “The US scientific organization has decided not to handle the papers in your subfield. Please go to thus-and-thus website, download a different template, put your paper into that template, fill out the copyright transfer agreement, and upload your paper.”

By Alexander Scheeline

Questions

What are the intellectual property issues involved?

What information are you missing that might clarify or enlighten the situation?

Should you upload the re-formatted version of your paper?

Takeaway Lessons:

1.) Once a copyright is transferred, one must at least get permission for alternative use (or have such alternative use specifically authorized in the copyright agreement) or one is violating the copyright.

If the same paper (simply reformatted) were to appear in two places, self-plagiarism has occurred unless it is noted that the second appearance is a reprint and the earlier publication is cited.

2.) The US organization’s viewpoint has not been reported. Is there some disagreement about how the conference should be run between the sponsors and, if so, does that influence whether one should participate?

Has the US organization released copyright on the affected papers, including yours? (They might have sent an email notification that ended up in spam.)

What was the disposition of the earlier manuscript and copyright transfer? Where are they, who has control of them, and to what use are they being put, if any?

3.) Until and unless the issues in 1. and 2. are resolved, the reformatted manuscript should not be uploaded. Note that the author can rework the manuscript any way he or she wishes as long as it is not distributed; thus, while awaiting clarification, one can generate a reformatted manuscript in anticipation of resolution of the problem.



Additional Information

The author of this scenario faced exactly this situation. The resolution came from looking at the copyright transfer form for the website. The transfer was in an editable format. Thus, a clause was added, stating that the undersigned transferred copyright only if the original copyright transfer were voided, if the originally-formatted manuscript was not distributed to third parties, or if the original holder of the transferred copyright (the US organization) chose not to accept the transfer in the first place. Notice that if the first upload was not accepted, the US organization would not hold copyright to it, and thus there is no conflict. If the first manuscript was not published, there would be no plagiarism (it would be like a manuscript that is rejected by one journal, then accepted at another). Further, if there were double distribution with the extra clause in the second transfer agreement, the conference organizers would automatically be violating the second copyright transfer agreement. Thus, by modifying the second copyright agreement the conference organizers were taken at their word that there would not be double publication or copyright violation, and the responsibility to ensure against double-publishing without acknowledgment transferred to them. Note that an explicit release of the first copyright agreement rather than a claim that it would not be used would have been a better way for the conference organizers to proceed.

Alternative solution considered: don't upload the revised manuscript, at which point presentation of the paper would not have been allowed. A useful exercise is to consider the 4 possible combinations of what happens to the first copyright transfer and what happens with or without uploading.

	First copyright transfer enforced	First copyright transfer not enforced or voided
Second version not uploaded	Author does not give presentation, but no ethical violations	Missed opportunity to present paper
Second version uploaded	Self-plagiarism, copyright violation. This combination must be avoided.	Author gives paper, no violations.

