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Editor, Comments from

Welcome to our final Bulletin of the year! I hope you've all accomplished your goals, had plenty of work, and most of all have enjoyed outings, visits, and vacations! As we hunker down for winter, keep in mind thoughts of next year's in-person conference, "See also Newfoundland," which will be held in St. John's, Newfoundland, on 9–10 June 2023. For members who want to learn more about Newfoundland, Lisa Fedorak has started a book club, which meets on the last Tuesday of each month until 30 May 2023 (see page 7).

Speaking of in-person events, several ISC/SCI members attended the "Continental Connections" conference, which was a hybrid event held in Berlin on 17–18 October. The day before, ICRIS held its triennial meeting.

Jolanta Komornicka, our new co-president, is featured in this issue's "Focus on" and is the author of our new feature, "Editor's Corner," on page 24. Also in this issue, Don Howes returns with Part 2 of his article "Derivative Works and Unauthorized Indexes," on page 18.

Welcome to our two newest executive members: Maggie Billard (Central region co-rep) and Judith Nylvek (BC region rep).

Congratulations to Tanvi Mohile, the 2022 Diversity in Canadian Publishing Bursary Award winner, and Jules Sherrad, winner of a six-month trial membership.

A special thank you to all the volunteers who have brought this issue to life. Best wishes to all in 2023! I welcome articles and ideas for future issues. Feel free to contact me at Bulletin_editor@indexers.ca.

Vicki Gregory

Le mot de la rédaction

Bienvenue à notre dernier Bulletin de l'année! J'espère que vous avez toutes et tous réalisé vos objectifs, eu abondance de travail et, pour la plupart d'entre vous, vous avez profité de sorties, de visites et de vacances! Alors que nous nous préparons à entrer dans l'hiver, gardez en tête le congrès de l'an prochain, «Voir aussi Terre-Neuve», qui se tiendra en présentiel à Saint-Jean de Terre-Neuve les 9 et 10 juin 2023. Pour les membres qui veulent en savoir plus sur Terre-Neuve, Lisa Fedorak a démarré un club de lecture chaque dernier mardi du mois jusqu'au 30 mai 2023 (voir page 7).

À propos d'événements en présentiel, plusieurs membres de la SCI/ISC ont participé au congrès «Continental Connections», un événement hybride qui a eu lieu le 17-18 octobre à Berlin (Allemagne). La veille, le comité international des délégués des associations d'indexation (International Committee of Representatives of Indexing Societies, ICRIS) a tenu sa rencontre triennale.

Jolanta Komornicka, notre nouvelle co-présidente, est l'hôte de la rubrique «Lumière sur/Focus on» de ce numéro et elle est également l'auteure de notre nouvelle rubrique, «Terminologie en évolution / Editor's Corner», page 24. J'en profite pour souhaiter également la bienvenue aux deux nouvelles membres du Bureau de direction, Maggie Billard (co-représentante de la région Centre du Canada) et Judith Nylvek (représentante de la région Colombie-Britannique).

Félicitations à Tanvi Mohile, récipiendaire du prix de la Diversité dans l'édition au Canada de 2022, et à Jules Sherrad, à qui une bourse de 6 mois a été attribuée. À lire également dans ce numéro, la seconde partie de l'article de Don Howes, «Derivative Works and Unauthorized Indexes», page 18.

Un merci tout spécial à tous les bénévoles qui ont permis à ce numéro de voir le jour! Meilleurs vœux à tous pour 2023! Vous êtes invités à me soumettre articles et idées pour les prochains numéros. Écrivez-moi à Bulletin_editor@indexers.ca!

Vicki Gregory

Upcoming Meetings and Events

BC Region—BC Regional meetings are the 1st Wednesday of the month at 7:00 p.m. PST, every other month.

For more information contact Judith Nylvek, bc_rep@indexers.ca.

Central Region—Meetings are held on the 4th Saturday of the month, every month. For more information contact Ronnie Seagren and Maggie Billard at central_rep@indexers.ca.

Eastern Region—Meetings are held on the 3rd Wednesday of the month at 6:00 p.m. EST, every other month.

If you are interested or have any questions, please contact Barbara Cuerdon at eastern_rep@indexers.ca.

Prairies & Northern Canada—If you are interested or have any questions, please contact Liese Achtzehner at prairies_rep@indexers.ca.

Members Monthly Video Chat

The national monthly video chats are now held on either a Wednesday or Saturday on alternating months. Dates and links can be found on the website (<https://>

indexers.ca/events/) under Upcoming Events on the home page.

The next executive committee meeting will be held on 14 January 2023, at 2:00 p.m. EST. Please let your regional rep know if you have any questions or concerns for the executive committee.

Save the Date!

ISC/SCI's Conference 2023, See also Newfoundland, will be held on 9–10 June 2023, in St. John's, Newfoundland. See page 7 for full details.

Noteworthy News

ISC/SCI member Stephen Ullstrom will soon be publishing a book geared toward new indexers and the index-curious, *Book Indexing: A Step-by-Step Guide!* If you are interested in receiving updates on when the book is ready, please follow this link: <https://twilight-frost-3537.ck.page/d204b57c62>.

Magpie Kudos

A member, Kim Hayes, thanked another member, JoAnne Burek.

Announcements

Ewart-Daveluy Award For Excellence in Indexing 2023: call for submissions! The deadline for submissions is 15 March 2023. Please see the ISC/SCI [website](#) for guidelines, criteria, and the submission form: indexers.ca/isc-awards/ewart-daveluy-indexing-award/

Appel aux candidatures : Prix d'excellence en indexation Ewart-Daveluy 2023 de la SCI/ISC! La date limite de dépôt des candidatures est le 15 mars 2023. Veuillez visiter le [site web](#) de la SCI/ISC pour prendre connaissance des lignes directrices et des critères et accéder aux formulaires de candidature : indexers.ca/fr/isc-awards/ewart-daveluy-indexing-award/

Presidents' Messages

Dear fellow indexers, friends and colleagues all, I'm honoured and humbled to become your new co-president. Though this is my first official message to you on this score, I've been working away at this job for the past few months, as you've probably noticed by now from one email or another. I had the absolute delight of meeting my fellow co-president, Alex, in person at the Berlin conference, along with six other members from Canada. (We certainly punched above our weight in representing ISC/SCI at the conference!) She's been exceedingly patient as I learn the ropes (and stays and lines).

I never anticipated being where I am after less than a year of indexing professionally. I owe immense gratitude to all of you, the members of ISC/SCI, who have made my entry into this career so rewarding—and downright fun. While I will always love sitting alone with a book, ferreting out its meaning and crafting the word maze that is an index, my ability to keep at it through the technology snafus, client conniptions (thankfully not that many), and business doldrums has been thanks to the supportive and engaged community of indexers I've found within this society. I look at my term as co-president as an opportunity to give back to the membership and a chance to pay it forward to new indexers joining our ranks.

I look forward to seeing you all at the various online chats, regional and national, and to meeting more of you in St. John's this coming June. Until then, happy indexing and a felicitous fall!

Jolanta N. Komornicka

Folks, I enjoyed working with Tere, but she was unable to continue as co-president. Luckily, we had thought of asking Jolanta to become president at the next AGM ... so we tapped her a smidge early!

It's been great working with Jolanta and passing things over to her. As she has mentioned, we finally got to meet in person in Berlin, which was fantastic. She will lead you into the future as I finish up the jobs that I didn't get to because they were not urgent or time dependent.

As I'm sure you'll see from Margaret's report (p. 12), the ICRIS meeting was very interesting, and I feel that we are more than holding our own, considering our size. After three online meetings in the past year and a half, ICRIS is starting to feel like a community!

Please check out the blurb about Conference 2023 (p. 7). It was so revitalizing in Berlin to see actual human beings in three dimensions. I hope you'll get to experience that in St. John's.

I was away on a working vacation this fall, finishing with a real vacation with one of my kids. It reminded me that I actually can relax and that I need to take the time to do so. I encourage you all to do so as well. Resting is restorative!

Alexandra Peace

Messages de la Présidence

Chers collègues indexeurs, amis et collaborateurs, je suis honorée et touchée de devenir votre nouvelle co-présidente. Bien que ce soit mon premier réel message officiel, j'ai travaillé à ce titre durant les derniers mois, comme vous l'avez probablement remarqué au fil des courriels que vous avez reçus. J'ai eu le plaisir absolu de rencontrer en personne ma collègue co-présidente Alex, lors du congrès de Berlin (ainsi que six autres membres du Canada! Nous avons certainement dépassé notre quota dans la représentation de la SCI/ISC à ce congrès!). Elle demeure excessivement patiente lors de mon apprentissage des rudiments du métier.

Je n'ai jamais envisagé d'être où je suis après moins d'un an d'indexation professionnelle. Je voue une immense gratitude à vous tous, membres de la SCI/ISC, qui avez conduit à ce que j'entame cette carrière si enrichissante et véritablement agréable. Alors que j'adore rester assise seule avec un livre, découvrant sa signification et créant le labyrinthe de mots que constitue un index, j'ai pu le faire en traversant le chaos de la technologie, les crises (heureusement rares) de clients et les hauts et les bas des affaires, grâce à la communauté soutenante et engagée des indexeurs que j'ai découverte au sein de notre association. Avec ce mandat de co-présidence, je vois une occasion de contribuer à mon tour et une chance d'encourager de nouveaux indexeurs à rejoindre nos rangs.

J'espère vous voir lors des diverses réunions en ligne, régionales ou nationales, et de rencontrer davantage d'entre vous en présence à Saint-Jean de Terre-Neuve en juin. D'ici là, je vous souhaite une indexation joyeuse et un merveilleux automne!

Jolanta N. Komornicka

Les amis, alors que je travaillais avec plaisir avec Tere, elle s'est retrouvée dans l'impossibilité de maintenir son mandat. Par chance, j'avais pensé demander à Jolanta de participer à notre prochaine AGA... nous avons donc poussé un tantinet plus tôt le processus!

Cela a été super de travailler avec Jolanta et de lui déléguer des choses. Comme elle l'a mentionné, nous nous sommes finalement rencontrées à Berlin, ce qui fut fantastique. Elle va vous conduire vers le futur dès que j'aurai terminé tout ce que j'ai à faire et que je n'ai pas encore terminé car ce n'était ni urgent ni dépendant du moment.

Comme vous allez certainement vous le saisir grâce au compte-rendu de Margaret (p. 12), la rencontre du comité international des délégués des associations d'indexation (International Committee of Representatives of Indexing Societies, ICRIS) a été très intéressante, et j'ai l'impression que nous tenons plus que notre part étant donné la taille que nous avons. Après plus de 3 rencontres en ligne dans l'année et demie qui s'est écoulée, l'ICRIS commence à ressembler à une communauté!

Allez lire les infos (p. 7) sur le congrès 2023. C'était si revitalisant de rencontrer de réels êtres humains en trois dimensions à Berlin! J'espère que vous allez venir vivre cette expérience à Saint-Jean de Terre-Neuve.

J'étais absente pour des vacances de travail cet automne, qui ont été suivies de réelles vacances avec l'un de mes enfants. Cela m'a rappelé que je suis autorisée à relaxer et que j'ai besoin de prendre le temps de le faire. Je vous encourage à faire de même. Se reposer est ressourçant!

Alexandra Peace

Announcements

ISC/SCI CONFERENCE 2023: SEE ALSO NEWFOUNDLAND SAVE THE DATE! 9–10 JUNE 2023

Get your calendars out and mark 9 and 10 June 2023 for ISC/SCI's annual conference. (Some pre- and post-conference events are also in the works, so you'll want to consider saving some extra days too.) The program team is pulling together great speakers and invaluable content—you'll be hearing more on that in the coming months. The conference is always exciting and informative, with a chance to network and chat with indexers from all over Canada and beyond. But you'll definitely want to register for Conference 2023—because we're going to Newfoundland!

Picture this: St. John's, the capital city of Canada's easternmost province, with its storied history and steep streets lined with rows of art-inspiring, brightly coloured maritime houses. And there's more: a historic harbour, a world-class university, and incredible things to do and see. You can take a wine tour, climb Signal Hill, visit Quidi Vidi Village, or go whale watching. And those are just a few of the activities available. Farther afield there's a fabled bird sanctuary and opportunities for hiking along the ocean coastline.

For our venue we've booked the Murray Premises Hotel, situated in a National Historic Site on St. John's harbourfront. Featuring nineteenth-century exposed masonry walls and wooden beams, this charming hotel will be our conference host and your centre of activities in the city and beyond.

This is going to be an unforgettable opportunity, and we want as many of you to come as possible. So mark your calendars—9 and 10 June 2023—and start dreaming!

NEWFOUNDLAND BOOK CLUB

Who else is excited by the prospect of visiting Newfoundland next year for Conference 2023? Want to learn more about Newfoundland regardless of whether you attend the conference or not? Join me for a discussion of books about Newfoundland and Labrador.

Each month, we will discuss a title that explores Newfoundland and Labrador's geography, people, or history. A list of books was developed by Newfoundlanders for their accurate representation of Newfoundland and Labrador.

All ISC/SCI members are welcome. Join us just for your favourites or come to each meeting, whatever works for you.

We meet on the last Tuesday of each month and run until May 30, 2023.

If you are interested in helping with the Newfoundland Book Club or have questions, please reach out to Lisa Fedorak at info@fedorakindexing.com.

Executive Committee News

SEPTEMBER EXECUTIVE COMMITTEE MEETING

On 17 September 2022 the executive committee held its regular meeting. It was a jam-packed session, to the extent that after three hours there was still more left to talk about (those items were then taken up at the November meeting). This was the first executive meeting with our new recording secretary, Patti Phillips, and our new co-president, Jolanta N. Komornicka.

Once we had approved the agenda and the prior meeting's minutes, we got down to business with the consent agenda items: reports from the various committees of ISC/SCI that let us know what's happening within the Society but don't contain any material for discussion. There were quite a number of those this time, including a report from the Archives Committee, the Awards Committee, the Mary Newberry Mentorship Program, the treasurer, and the web administrator, plus updates on webinars and community-engaged research and from the Bulletin, the presidents, and the four regions.

The majority of the executive's time was spent on materials submitted for discussion. Most pressing of these were Conference 2023 (We have a date! St. John's, Newfoundland, 9 and 10 June 2023! There's also a plan for workshops on the 11th, so hold those dates), bursaries for executive committee travel (keep an eye out for a call for non-executive members to sit on a committee for this), and conference scholarships for new members. Part of the discussion on the bursaries/travel funds included amending our current policy to increase the dollar amount available for recipients.

Here's a rundown of other items discussed:

Margaret de Boer filled us in on what's been going on

at ICRIS in advance of the meeting (then coming up, now past) in Berlin. ICRIS has been considering a website that would host a page for each indexing society, a proposition the executive was in favour of and voted to support financially.

Occasionally items that need to be voted on can't wait for an executive meeting. In those instances, an email vote is used, but some of the procedures around the process were a little unclear. We took time on the 17th to clarify how to bring forward, discuss, and vote on email motions.

When it came to discussing the TIDE bursaries, the executive agreed that the website should include a web-fillable application rather than having only a downloadable form—a matter of accessibility and usability. Particularly in light of TIDE's remit, the executive agreed that it's important that potential applicants not be shut out of the process because of how the application can be accessed.

Looking forward to the AGM this summer, when executive members will be standing again for election, the executive moved to strike a succession committee that will take the pulse of current executive members (in terms of who's staying) and will search for replacements for those who won't be returning.

Once we'd moved through the discussion items for the day, we turned to new business. Inspired by ANZSI, ISC/SCI is working on putting together an indexing lending library, though a lot of details need to be hammered out.

Our next meeting will be on 14 January 2023.

Jolanta N. Komornicka

Executive Committee News

NEW EXECUTIVE MEMBERS

Maggie Billard – Central region co-rep

Maggie is an indexer and copyeditor based in Toronto. Her favourite genres are romance (to edit) and trade books (to index), but her unruly TBR pile is leaning towards historical non-fiction. She has a daughter named Milo, a crested gecko named Pickle, and a yellow motorcycle she hasn't named yet.

Judith Nylvek – BC region rep

When I started planning for an early retirement from teaching linguistics at the University of Victoria, a second career as an editor seemed a good fit as I had taught English grammar for more than 25 years. To prepare, I took some courses offered by UBC, which is where I discovered indexing. I needed to know more, so I signed up for the Berkeley indexing course in 2018. I retired from UVic at the end of 2021, and now I'm working to grow my business. Most of my work is scholarly in the humanities, social sciences, and music. Much of my spare time is spent walking and grooming my golden retrievers. I look forward to serving as the BC representative of ISC/SCI and getting to know the BC indexers.



From top left: Jolanta Komornicka, Alexandra Peace, Maggie Billard, Judith Nylvek. Photo provided by Alexandra Peace

DIVERSITY IN CANADIAN PUBLISHING BURSARY AWARD FOR 2022

The Indexing Society of Canada / Société canadienne d'indexation (ISC/SCI) is pleased to announce that Tanvi Mohile is the 2022 ISC/SCI Diversity in Canadian Publishing Bursary Award recipient.

Tanvi Mohile is a PhD Candidate in the Department of English and Film Studies (EFS) at the University of Alberta (U of A) in Edmonton.

She was born and raised in Mumbai, India, and she moved to Edmonton in 2018. She has a Bachelor's in Microbiology and a Master's in English Literature.

Tanvi's love for words and books began at an early age, and she hopes to work in publishing after the completion of her degree. She has previously worked as an academic editor and a lecturer in Mumbai. At the U of A, Tanvi was the first intern to work at the University of Alberta Press under EFS' PhD Concentration in Editing and Publishing. Over the four terms of her internship, she learned the nuances of scholarly publishing, which further intensified her interest in the field. Since completing her internship, Tanvi has worked on several projects as part of research assistantships, the most recent of which involved editing a book manuscript and creating an index for it. This was Tanvi's first experience with indexing and led to her interest in developing the skill further.

Currently, Tanvi is engaged in research centring around authorship practices on online writing platforms as part of her PhD. Her research interacts with several fields, including book history, publishing studies, authorship studies, and fandom studies.

She is also the co-founder of [Drafted Editorial Services](#), which offers editing and proofreading services in various



Photo provided by Tanvi Mohile

disciplines, including the humanities and social sciences, economics, and management. When not working on her research or freelance business, Tanvi loves spending time with her husband and young son, playing with her cat, reading, watching films, and visiting cafes.

With this bursary, ISC/SCI aims to help achieve equality of opportunity for aspiring indexers belonging to under-represented and/or marginalized groups. The bursary covers fees for an approved indexing program, two years of ISC/SCI membership with listing, and entry into the Mary Newberry Mentorship program

In addition, a 6-month trial membership was awarded to Jules Sherred from Duncan, BC.

Jules Sherred works as a commercial food photographer and stylist, writer and recipe developer, journalist, and outspoken advocate for disability and trans rights. His website *Disabled Kitchen and Garden* and his cookbook *Crip Up the Kitchen* (May 2023, TouchWood Editions) were born out of the need to include disabled people in the conversation around food. You can visit [him online at julesherred.com](http://julesherred.com).



Photo provided by Jules Sherred.

The Indexing Society of Canada | Société canadienne d'indexation (ISC/SCI) is Canada's professional society of indexers. Our mission is to encourage the production and use of indexes, promote the recognition of indexers, improve indexing techniques, and foster communication among individual indexers across Canada. Our vision is "Accessible information; informed people." Learn more at indexers.ca.

**Judith Clark, Communications Director,
Indexing Society of Canada / Société canadienne
d'indexation (ISC/SCI)**

DU PRIX DE LA DIVERSITÉ DANS L'ÉDITION AU CANADA POUR 2022

La Société canadienne d'indexation/Indexing Society of Canada (ISC/SCI) est heureuse d'annoncer que Tanvi Mohile est la récipiendaire du prix 2022 Diversité dans l'édition au Canada de l'ISC/SCI.

Tanvi Mohile prépare son doctorat au département d'anglais et d'études cinématographiques (EFS) de l'Université de l'Alberta (U of A) à Edmonton. Elle est née et a grandi à Mumbai (Inde) et est arrivée à Edmonton en 2018. Elle détient un diplôme de 1er cycle universitaire (Bachelor) en microbiologie et une maîtrise en littérature anglaise.

L'amour de Tanvi pour les mots et les livres a débuté dès son jeune âge et elle espère travailler dans l'édition après avoir obtenu son doctorat. Elle a déjà travaillé comme editrice universitaire et comme chargée de cours à Mumbai. À l'U of A, Tanvi a été la première stagiaire à travailler aux Presses de l'Université dans le cadre de la concentration Révision et édition du doctorat en EFS. À l'issue de ses quatre sessions de stage, elle a intégré les nuances de l'édition scolaire, ce qui a intensifié encore son intérêt pour ce domaine. En même temps qu'elle réalisait son stage, Tanvi a travaillé sur plusieurs projets en tant qu'assistante de recherche, le plus récent impliquant la révision d'un ouvrage et la création d'un index pour ce dernier. Ce fut la première expérience de Tanvi dans ce domaine et cela a motivé son intérêt à développer plus avant ses compétences.

Actuellement, dans le cadre de son doctorat, Tanvi poursuit une recherche centrée sur les pratiques des auteurs sur les plate-formes de rédaction en ligne. Sa recherche relève de plusieurs champs : l'histoire du livre, les études en édition, les études en écriture/rédaction et les études de fans (fandom studies).

Elle est aussi la co-fondatrice de [Drafted Editorial Services](#), qui offre des services en révision et correction d'épreuves dans diverses disciplines, en particulier les sciences humaines et sociales, l'économie et le management. Lorsqu'elle n'est pas occupée par sa recherche ou son entreprise, Tanvi aime passer du temps avec son mari et son jeune fils, jouer avec son chat, lire, regarder des films et visiter des cafés.

Avec ce prix, la Société vise à promouvoir l'égalité des chances pour les aspirants indexeurs appartenant à un groupe sous-représenté ou marginalisé. Ce prix couvre le coût pour la formation à un programme reconnu d'indexation, pour deux ans de cotisation à la Société avec inscription sur le registre des indexeurs et pour une participation au programme de mentorat de Mary Newberry.

De plus, six mois d'adhésion gratuite ont été attribués à Jules Shered de Duncan (Colombie-Britannique).

Jules Shered travaille comme photographe et styliste en alimentation commerciale ainsi que comme rédacteur et développeur de recettes, journaliste et fervent défenseur des droits des personnes en situation de handicap et trans. Son site Web, *Disabled Kitchen and Garden*, et son livre de cuisine, *Crip up the Kitchen* (May 2023, TouchWood Editions), sont nés du besoin d'inclure les personnes en situation de handicap dans les échanges sur l'alimentation. Vous pouvez lui rendre visite en ligne à julesherred.com.

La Société canadienne d'indexation / Indexing Society of Canada (SCI/ISC) est l'association professionnelle des indexeurs et indexeurs au Canada. Sa mission est d'encourager la production et l'utilisation d'index, de promouvoir la reconnaissance du travail des indexeurs, d'améliorer les techniques d'indexation et de favoriser la communication entre indexeurs au Canada. Sa devise est : « Une information accessible, pour un monde éclairé ». Pour en savoir plus, consultez le site de la SCI à <https://indexers.ca/fr/>

Comité TIDE (The Inclusion, Diversity, and Equity Committee), ISC/SCI

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ICRIS Triennial Meeting

Margaret de Boer

The International Committee of Representatives of Indexing Societies (ICRIS) meets every three years in person. On October 16, one day before the Berlin conference, we held our long-awaited triennial meeting. After meeting online during the pandemic, it was such a pleasure to finally gather in person again.

The meeting began with societies sharing their news, focused on reports of current membership numbers and brief outlines of any notable activities within the societies. Hearing these updates is important, as the ideas we share with each other often lead to an increase in member activity and benefits within societies. For example, hearing about ANZSI's library program has led to exploration of a pilot lending-library program for ISC/SCI. Conversely, ANZSI (Australian and New Zealand Society of Indexers) heard about our regular online chats and has begun some online activity for members.

Every three years, ICRIS representatives examine the International Agreement. All society boards were asked to review it in advance of the meeting, asking their representative to communicate any requested changes to ICRIS. The ICRIS coordinators reviewed all the requested changes and the Agreement was approved at the meeting, with some small amendments. The ICRIS coordinators will now make the necessary final amendments and will circulate the Agreement to all societies for ratification by their executive committees.

ANZSI had proposed an indexers website where all society contact information would be gathered together. ISC/SCI supported this proposal, as we feel it's important to have an international presence online showing all the societies listed together. After a long discussion, a static webpage had support from ICRIS representatives. ANZSI

will circulate a rewritten proposal to ICRIS representatives for discussion with their executive committees.

An update about *The Indexer* was presented by Mary Coe, along with the announcement that Ann Kingdom is joining her as co-editor. Mary is currently negotiating a new contract with LUP (Liverpool University Press) and will try to keep price increases to a minimum. Currently there is five-year rolling access to issues on their website. It was good to hear that LUP is moving to a larger, more robust platform. We were also pleased to hear that subscription copies for ISC/SCI will now be mailed from the United States by Oxford. In order to reduce waste, the press will begin mailing *The Indexer* without a plastic cover. Mary and Ann are working on the best way to index back content of *The Indexer* (there was a presentation at the Berlin conference on this project). Mary is always open to suggestions/submissions for articles.

Pierke Bosschieter and Caroline Diepeveen of NIN (Netherlands Indexing Network) agreed to another three-year term as ICRIS coordinators. All ICRIS representatives endorsed this decision and thanked them for their excellent work as coordinators.

The next triennial meeting will be held in 2025 and will be hosted by ASI (American Society for Indexing) as a hybrid event.

At the close of the meeting, DNI (German Indexing Network) member Axel Ermert circulated International Standard ISO 5127 on Information and Documentation—Foundation and vocabulary (www.iso.org/obp). It is currently under revision and is to be completed in 2023. Axel, who has done much work on this, welcomes comments and has copies available on request (axel.ermert@t-online.de).

“Continental Connections” International Indexing Conference

Jolanta N. Komornicka

COVID has brought about many changes, most of which I’ll be happy to see go. But one I could happily keep is the hybrid conference. I write this in the immediate wake of “Continental Connections,” the international indexing conference organized by the Netherland Indexing Network (NIN), Deutsches Netzwerk der Indexer (DNI), and the Society of Indexers (SI), with the cooperation of the Deutsche Gesellschaft für Informationswissenschaft und Informationspraxis (DGI). Held in Berlin, Germany, on 17–18 October, it was (to my knowledge) the first hybrid indexing conference. While a lively audience of about 40 attended in person, an equally engaged online group (judging by the chat activity) joined over Zoom. And it wasn’t just the audience that was hybrid—quite a few presentations were as well.

As for the presentations themselves? The topics ranged from discussions of standards for indexing (Chunxiang Xue), how to navigate the possibilities of linked and embedded indexing (Glenda Browne, Walter Greulich, and Pilar Wyman), and the challenges facing indexing *The Indexer* (Mary Coe, Max McMaster, and Ann Kingdom) to client communications (Devon Thomas and Gwen Henson), the history of alphabetization (Judith Flanders), and indexing as content enrichment (Johannes Munk and



International liaisons attending in person. From left to right, back row: Margaret de Boer, Karin McGuirk, Pierke Bosschieter, Devon Thomas. Front Row: Ann Kingdom, Glenda Browne. Photos provided by Alexandra Peace.

Katharina Munk). That list only scratches the surface, but since the conference program—available online at <https://dgi-info.de/provisional-program/>—provides excellent abstracts, I’ll limit myself to highlighting a few moments that still stand out several days later.

First, I was very interested in the standards development taking place in China. Unlike NISO, which provides something of a one-size-fits-all method of best practices, here we have the creation of multiple standards to serve different indexing purposes: general, local chronicles, and theses/dissertations. A new standard is also in the works for ancient books. I’m hopeful that a translated version will become available, as this is thoroughly exciting!

Just as delightful to my lexical heart was the presentation by Jochen Fassbender and JoAnne Burek on the launch of the International Indexing Dictionary (available online at <https://dictionary.theindexer.org/>). The dictionary presently covers six languages, with ten concept categories encompassing over 900 terms. My understanding is that the dictionary will continue to grow, with more languages being added to reflect the language skills of those volunteering their time and knowledge.

Sometimes it’s the thing most obvious in hindsight that produces the biggest wow factor. Urs Stäheli spoke to us about the index as a list, and how it fits into the sociology of list-making. In creating our index-lists—presenting the reader with a travel guide that can lead them through otherwise labyrinthine texts—indexers at once act in





Berlin Conference Committee: Caroline Diepeveen, Katharina Munk, Ann Kingdom, Walter Greulich, Pierke Bosschier. Photos provided by Alexandra Peace.

service of the authorial text and threaten to upstage it. As mediators between text and reader, indexers reinterpret the text, deciding what is superordinate, subordinate, or not worth ordering at all. They also create a supplement that makes the text more complete than it was without the index. What a fine argument to take to publishers who might still be wondering what value we add!

For all the high points of this event—and they were legion—a conference is not a conference without some hiccups. Thankfully, from the perspective of someone in Berlin, there was only one real technical glitch, and even then the majority of the presentation came through.



*Canadians in Berlin: JoAnne Burek, Alexandra Peace, Jolanta Komornicka, Margaret de Boer
Not in photo: Sergey Lobachev, Lisa Fedorak, Maggie Billard*

Unfortunately, a few presenters were unable to make it, either in person or online, and I know you'll join me in wishing them a speedy recovery.

Finally, I must end with a nod to the non-presentation elements of the conference. I cannot speak to the online breakout rooms, but I can say that being able to meet people in person, going out with them for drinks and meals, would have made the journey worthwhile even if half the talks had been cancelled. Thankfully, they weren't. I raise a glass to the tireless organizers who put together such an illuminating and collegial conference. Prost!



Berlin. Alexanderplatz. Photo by Sergey Lobachev.

Focus On: Jolanta Komornicka

How long have you been indexing?

I took on my first professional indexing job at the start of January 2022. Before that, I worked on some practice indexes before taking an indexing course. I indexed a lot of passing mentions in those first practice indexes.

How long have you been a member of ISC/SCI?

Since about two weeks before my indexing course started. I'd signed up for the course out of curiosity, having learned about indexing while doing my editorial training. I started reading Mulvaney, knew this was what I wanted to do, and joined the society, driving over to Toronto from Kitchener for the last in-person meeting of the summer.

Where did you get your indexing training?

Toronto Metropolitan University (then known as Ryerson). Alex Peace taught the course I took. Though much shorter than the other major indexing courses, I've not found it lacking in comparison. The course is exceptionally well designed and well taught.

Which indexing software do you use?

I use CINDEX for back-of-book indexes and Index-Manager for embedded.

What did you do before you started your indexing career?

I was a professor of medieval history in my former life. Academia being what it is today, a tenure-track job was looking ever more unlikely, particularly as I'd reached the end of my willingness to constantly relocate in search of such an elusive goal. When the pandemic hit and my contract wasn't renewed (irony: I was in the midst of teaching a course about the Black Death when we went into lockdown—the moment I was relevant, I was out of work), I thought I'd live the life of an author, holed away in my attic writing books. Nine months of that and nearly as many hours spent playing video games as writing, I decided I needed more structure to my life. That's what led me to enroll in the publishing certificate at TMU.

Do you see those things as having any relationship to indexing?

I don't think anyone would be surprised to know that editing and proofreading have a connection to indexing. Beyond the obvious, there's the idea of the right word in

the right place, reflecting and enhancing the author's meaning rather than introducing one's own, and thinking about multiple levels of readership. Plus, I find I think a lot about commas when indexing, which I hadn't expected.

As for having been a history professor, I do find that those skills help me in what I do. Even though I index beyond the medieval, my knowledge of where and how to do basic research helps with double-checking names and those elements I run

across that leave me a bit uncertain. The familiarity academia has given me with scholarly argumentation, reader expectations, and writing structure all help me in my indexing. I'm able to anticipate the direction an author will take, which aids in creating a solid structure for the index and designing cross-references that will illuminate useful connections. Knowing about the readership helps me decide on main entries and alternative terms to place as glosses or as redirects to the preferred term.

I think having the background in academia and the PhD also give me a sense of ease with my professorial clients. I understand the world they're coming from, the constraints of the university systems they operate under, and I'm able to present myself to them as someone who knows what it's all about, even though I'm so young in my indexing career.

What was it that attracted you to indexing? Why did you think it would be a good fit?

I think it might run in my blood. Both my mother and my aunt did a bit of indexing back in the day, and on top of that I tend to be very organized (or I was until my kid came into my life): cassettes and CDs organized by genre, artist, and title; books shelved by genre, topic, author, and title; etc. To be honest, though, I'm not sure what it was. Something about it just clicked with my brain as I began



Photo provided by Jolanta Komornicka.

reading Mulvaney in advance of my indexing course. I love reading and learning, and indexing offers that in droves. I find indexing to be a kind of word-game-meets-logic-puzzle—two things I greatly enjoy. A lot of the time it feels like play to me.

What do you hope to do next that isn't related to indexing?

At some point I really want to finish the novel I'm writing. I've been working on this thing in multiple iterations, across three genres, for too many years now. It's about time to get it done. Beyond that, I'm excited to be travelling again. I'm also a giant nerd. I play Dungeons & Dragons regularly, both running a game and playing in several more. Now that the school year is back in session, I want to resume running games for the kids in my neighbourhood.

What is the craziest thing you have ever done in your life?

I'm not a particularly wild person. My mother was always disappointed during parent-teacher conferences to discover that I never got into trouble or rebelled in any way. (I did, though, by reading a fantasy book under my desk when I was supposed to be listening to the lesson; I guess I just never got caught).

I did once meet a member of the royal family of Zanzibar while sheltering from the rain in Hyde Park, London. We got to chatting and I returned with him to his flat, where we and a friend of his shared a very expensive bottle of wine. And then he asked if I'd ever seen Hong Kong or New Delhi, offering me a life of leisure with him as his kept woman. I was in my twenties, and he was definitely not. At that point I was looking out the window and gauging how much it would hurt to jump. I managed to leave with the promise that I'd meet up with him the next day at a particular underground station. I stayed on the opposite side of the city that day.

Is there anything you would like to share about yourself that people would never guess in a million years?

I'm not sure much about me is shocking, but few would likely guess on first meeting me that I love listening to heavy metal and early 2000s K-pop, adore bad action movies and seeing them in the theatre, and fenced in the Junior Olympics. I also have a hard time seeing the point of touring modern cities, but that one maybe isn't so surprising.

What other sorts of things do you like to do?

I love hiking, biking, and kayaking. I read quite a lot (sci-fi, fantasy, and nonfiction, including comics/graphic novels

in all three genres), quilt, and make sporadic attempts at finishing my novel. And I love tabletop role-playing games, especially Dungeons & Dragons. There's a D&D-themed tattoo covering my entire lower leg.

What is the most interesting index you have ever worked on?

There have been a few that were interesting, each in their own way. For pure interest start to finish, and well-written as well, I'd have to go with Joseph Clark's *Veracruz and the Caribbean in the Seventeenth Century*. Clark offers a reorientation of how scholars should conceptualize Veracruz (as part of Caribbean history first and foremost, rather than as part of Mexican history), which is fascinating in itself and persuasively argued. But I also loved all the human details in the book, including how healing and witchcraft figured into identity and movement around the Caribbean.

What index was the most fun to work on?

The work that stands out for giving me the most laugh-out-loud moments, oddly enough, was *Creating Natural Form* by Benjamin Schmidt, Sean Sweetman, and Briana Garcia. The book concerns how to dress and casket a body, including restoring a body that has suffered injuries prior to death. You wouldn't think that'd be the most entertaining of texts, and I admit there were times when I had to scroll quickly past the pictures, but the authors know their stuff. There were more than few quality "dad jokes" running through the text, such as a reference to the movie *Face/Off* and a comment about an ancient Roman Batman. If ever there was a text that needed jokes, this was it.

Do you have any thoughts about your indexing career that you would like to share?

One of the things I'm truly grateful for and would recommend to other new indexers is taking advantage of the regional and national chats. I learned a lot from talking with others, especially having the opportunity to dig deeper into topics that were brought up on one of the listservs. I'm also glad that my first indexing job was embedded. I never had the chance to get cold feet about doing embedded indexes, and now easily half my work is for embedded.

What do you think about the future of embedded indexes? Do you think the ratio of embedded to back-of-book will become much higher than it is now?

I think that embedded indexes are here to stay. I can only hope that as e-books become more common and better (digitally) paginated, embedded indexes will

become the standard for them, rather than the static back-of-book index that can be useless in a digital format (especially when publishers strip page numbers from their digital editions). I think there's also a lot of potential within embedded indexes if indexers and programmers can align. It'd be nice for users to tag the index entries they want to work their way through and have them copied to a separate page where they can be perused at the user's leisure. Or a user could right-click on a cross-reference and get a menu option that essentially says, "Copy all links along this path to separate page," so that the information trail could be followed and easily viewed.

Similarly, it'd be nice if, when you're looking at an entry with, say, six locators after it, you could click to get a navigation bar to pop up, so that you could begin with the first locator, then click an arrow to move to the next locator in the string and then the next, without having to return to the index itself (kind of the way Google Books does for its search results within a given text). I say this in part because I find flipping pages in a digital book exhausting. I'm a multi-finger bookmarker, but what takes two seconds in a physical book can be slower than the arrival of spring in Canada when using an e-book. Plus, I remember things based on where they are on a page, and digital books often reflow the pages, erasing my mental markers. Thus, having an option to smoothly create an internal reference document and a smoother, quicker navigation of the embedded links could be useful. I may be alone on this one, however.

Do you have any thoughts that you would like to share about ISC/SCI?

ISC/SCI is full of the warmest, most welcoming, generous, and genuinely helpful people I've ever met, whether professionally or otherwise. After academia, that was both a surprise and a welcome relief. Someone—usually multiple someones—will always be there to answer a question or work through a problem with me, and I see the same being done for others on the lists and in meetings. The opportunities ISC/SCI provides its members through the listserv and chats, the member-initiated groups, TIDE, and our various other committees are fantastic, and all done by volunteers who love indexing. I couldn't be happier with where I've ended up in my career.

Do you have any suggestions or words of wisdom for other indexers out there, new and old?

I hesitate to offer words of wisdom when I've been at this for less than a year. However, in my experience running the Indexers Book Group MIG for ISC/SCI, which has a mix of new and old indexers, it's clear there's always something

more to learn about indexing and about how to tackle various materials. Even if you have your own way and are happy with it, hearing how others do it, and why, can hone your indexing practice. Plus, whether you're new or old, a lot of indexing comes down to judgment calls. It goes back to the word-games-meets-logic-puzzles idea: everyone will have a slightly different approach to a question, a different logical path, a slightly different word choice, an alternative path through the maze of cross-references. Just as doing a crossword is seen as a solo activity but can be great fun when shared with a friend over a cup of coffee, so too can indexes be.

What is the Indexers Book Group MIG? There may be folks who haven't heard about it.

I began the Indexers Book Group MIG as I was ending my training course. Alex Peace, my instructor, had referenced many books on indexing which she highly recommended, though they hadn't been assigned. I thought it'd be nice to get a group of students together to continue studying and learning, even after the course was done. My timing couldn't have been better, as ISC/SCI had just begun running with the idea of member-initiated groups. I filled out the form, got approval from my regional rep, and launched the book group, which is open to all indexers, new and old, and not only those who are members of ISC/SCI. Currently we have about 7 members who attend regularly, some of whom are still taking an indexing course and others who've been indexing for years. Some titles we've covered are Towery's *Ten Characteristics of Quality Indexes*, Stauber's *Facing the Text* and Browne and Jermy's *The Indexing Companion*.

Do you have any advice specifically for new indexers?

If you're new, dive into embedded indexing. Get to know your regional rep and attend the meetings. Don't just lurk on the listservs (I say, recognizing I can be guilty of that); ask questions and chime in with your own thoughts when people are asking for advice or opinions. Make use of your peers to get another set of eyes on your indexes. I'd also add that if you're getting feedback on your indexes, consider following up with your reviewers, especially the one who gave the harshest/most critical response. Ask to chat about it. I've found this to be very helpful (on both sides of the conversation). Feedback can be intimidating, but what I've learned from doing this is that sometimes it's a matter of style, but sometimes it's a more critical question of best practices. You won't necessarily know unless you're willing to talk to the other person. And, as I said, indexers are just about the friendliest bunch of professionals out there.

Derivative Works and Unauthorized Indexes. *Part 2: Unauthorized Indexes*

by Donald Howes

In Part 1 of this article I examined derivative works, translations, and adaptations, focusing on how those three classes of works relate to Canadian copyright law. In this second part, I examine unauthorized indexes and answer the two questions that arose in Part 1: First, does an unauthorized index infringe the source text?¹ And second, does an unauthorized index constitute a “substantial part” of the source as defined by Canadian copyright law?

Unauthorized Indexes

An index is, by definition, a derivative work. The creation of an index requires the existence of a source text. In almost all instances, an indexer creates an index as part of a contractual relationship with the author or publisher of the original work. However, if the index is unauthorized, the potential for infringing the underlying work arises.

It is clear that the unauthorized index meets the requirement of originality as defined in *CCH*² and qualifies as an original work in which copyright subsists. However, because of the unsettled nature of this area of law, arguments can be made both for and against this unauthorized index infringing the original work.

Infringing

Braithwaite,³ Vaver,⁴ and Zener and Etkin⁵ all take it as given that the creation of an unauthorized derivative work is an infringement of the underlying source.⁶ If they are correct, then the holder of copyright in the infringed work could take action to enforce copyright. The copyright holder could potentially compel the removal of the unauthorized index from the indexer’s website and the destruction of all copies of the index. This is due to both the infringement of the original copyright and the subordinate nature of the copyright held by the indexer in relation to the original work (fig. 1).

The copyright holder of the original work could not use the unauthorized index without permission, as to do so would be a violation of the copyright held by the indexer. However, compelling arguments can be made that an unauthorized index does *not* infringe the source material copyright.

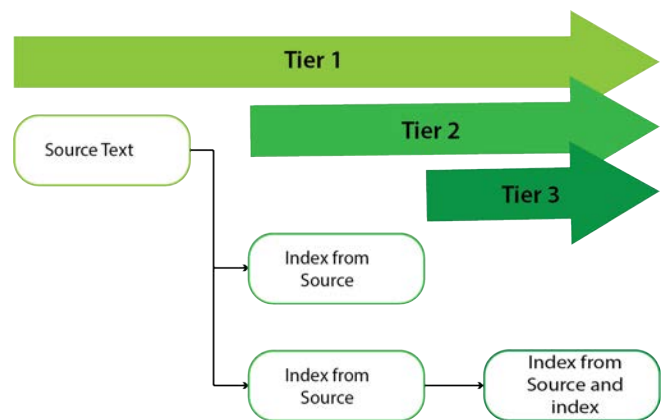


Figure 1. Distributed relationship of originality. Authors at each tier hold a subordinate copyright to that of the authors at higher-level tiers.

No Infringement

Three strong arguments can be made to support the assertion that an unauthorized index does not infringe the copyright of the source text. The first of these arguments deals with the substantiality requirement for infringement. The second falls under the doctrine of **user rights** as promulgated by the Supreme Court of Canada.⁷ The third deals with the conceptual basis of an index.

Note that the holder of copyright in the original work could potentially attempt to compel action on the part of the indexer through invocation of the moral right they hold to maintain the integrity of their work.⁸ However, an action of this type would be very problematic in the case of an unauthorized index, given the arguments made below.

Substantiality

For a work to infringe the copyright of another, the material being copied must be substantial. Most recently, in *Cinar Corporation v. Robinson*,⁹ the Supreme Court of Canada dealt extensively with the concept of substantiality.

Since what is substantial is not defined in the *Copyright Act*, the Court first addresses substantiality:

The Act protects *original* literary, dramatic, musical, and artistic works: s. 5. It protects the expression of ideas in these works, rather than ideas in and of themselves. An original work is the expression of an idea through an exercise of skill and judgment. Infringement consists of the unauthorized taking of that originality.

However, the Act does not protect every “particle” of an original work, “any little piece the taking of which cannot affect the value of [the] work as a whole”. Section 3 of the *Copyright Act* provides that the copyright owner has the sole right to reproduce “the work or any substantial part thereof”.

A substantial part of a work is a flexible notion. It is a matter of fact and degree. “Whether a part is substantial must be decided by its quality rather than its quantity”. What constitutes a substantial part is determined in relation to the originality of the work that warrants the protection of the *Copyright Act*. As a general proposition, a substantial part of a work is a part of the work that represents a substantial portion of the author’s skill and judgment expressed therein.

A substantial part of a work is not limited to the words on the page or the brushstrokes on the canvas. The Act protects authors against both literal and non-literal copying, so long as the copied material forms a substantial part of the infringed work. (paras. 24–27, citations omitted)

They then examine the approach to be taken when determining substantiality:

As a general matter, it is important to not conduct the substantiality analysis by dealing with the copied features piecemeal. (p. 1173)

Canadian courts have generally adopted a qualitative and holistic approach to assessing substantiality. “The character of the works will be looked at, and the court will in all cases look, not at isolated passages, but at the two works as a whole to see whether the use by the defendant has unduly interfered with the plaintiff’s right.” (para. 35, citation omitted)

Finally, they make clear the importance of assessing substantiality from the view of the potentially infringed work:

The question of whether there has been substantial copying focuses on whether the copied features constitute a substantial part *of the plaintiff’s work*—not whether they

amount to a substantial part *of the defendant’s work*. The alteration of copied features or their integration into a work that is notably different from the plaintiff’s work does not necessarily preclude a claim that a substantial part of a work has been copied.

This is not to say that differences are irrelevant to the substantiality analysis. If the differences are so great that the work, viewed as a whole, is not an imitation but rather a new and original work, then there is no infringement. As the Court of Appeal put it, “the differences may have no impact if the borrowing remains substantial. Conversely, the result may also be a novel and original work simply inspired by the first. Everything is therefore a matter of nuance, degree, and context.” (paras. 39–40, emphasis added)

As Sookman has noted,

An infringing work may also be an original work. Accordingly, this passage by the Court might be interpreted to mean that substantial differences in two works may suggest that the defendant has not reproduced all or any substantial part of the allegedly infringed work.¹⁰

By focusing on the factual and conceptual content of a work rather than the “expression of an idea through an exercise of skill and judgment” (this is explored in more detail below), an index does not substantially duplicate the *expression* of the underlying work, which is what copyright protects. Indeed, the indexer will often draw connections and highlight relationships between facts and concepts that are not explicitly expressed in the underlying work. Drawing from the arguments advanced by Basalamah in relation to translations,¹¹ this change in form is sufficiently substantial as to render the index a new, original, non-infringing work.

To answer the question posed earlier, an unauthorized index does not substantially reproduce the content of the underlying work and therefore does not infringe the copyright of that underlying work.

User-Generated Content Exception

The user-generated content (UGC) exception was added to the *Copyright Act* in 2012 and, despite attempts by stakeholders in the publishing industry to have it weakened or removed, will remain in the Act in its present form (fig. 2).¹² The UGC exception codified what had become common practice with the development of digital social media platforms, what is known as “Web 2.0.”¹³ This is but the latest twist in a practice that has been common for centuries.¹⁴

Non-commercial user-generated content

29.21 (1) It is not an infringement of copyright for an individual to use an existing work or other subject-matter or copy of one, which has been published or otherwise made available to the public, in the creation of a new work or other subject-matter in which copyright subsists and for the individual—or, with the individual's authorization, a member of their household—to use the new work or other subject-matter or to authorize an intermediary to disseminate it, if

(a) the use of, or the authorization to disseminate, the new work or other subject-matter is done solely for non-commercial purposes;

(b) the source—and, if given in the source, the name of the author, performer, maker or broadcaster—of the existing work or other subject-matter or copy of it are mentioned, if it is reasonable in the circumstances to do so;

(c) the individual had reasonable grounds to believe that the existing work or other subject-matter or copy of it, as the case may be, was not infringing copyright; and

(d) the use of, or the authorization to disseminate, the new work or other subject-matter does not have a substantial adverse effect, financial or otherwise, on the exploitation or potential exploitation of the existing work or other subject-matter—or copy of it—on an existing or potential market for it, including that the new work or other subject-matter is not a substitute for the existing one.

Figure 2. Copyright Act, section 29.21, non-commercial user-generated content exception

A common example of UGC is when a parent records their child dancing to a piece of popular music, then posts the video to social media. The use of the music in this context would be covered by UGC and the creator of the video would not be liable for copyright infringement. This example (and others like it) explains why the UGC exception is often called the “YouTube exception.”

However, as Scassa points out, there is nothing in the language of the Act that limits the application of the UGC exception to digital content:

To qualify as UGC for the purposes of this exception, the author of UGC must use an existing work—with no

limitations on kind or category; and they must use it to create a new work in which copyright subsists.

This is a very broad definition with the potential to include all manner of works. Leaving aside dancing toddlers, *the exception is broad enough to include things such as an unauthorized translation of a work*, and a compilation (which can be a work that is comprised of other works) ... the UGC exception seems not only to include such a creature within the definition of UGC, it also legitimates the non-commercial distribution.¹⁵ (emphasis added)

If the UGC exception is flexible enough to cover an unauthorized translation (where the entire source text is translated) or a compilation (where multiple works are aggregated), it is also broad enough to cover an unauthorized index (where the source text is abstracted into a new form) and the non-commercial distribution of that index.

Composed of Facts and Concepts

We must first look at the composition of an index. Duncan describes the qualities of an index thus: “[an] index will distil its source work into a collection of keywords: names, places, concepts. Abstraction, then: reducing the material, summarizing it, to create something new and separate. The index is not a copy of the thing itself.”¹⁶ More fundamentally, Fetters states, “Indexes for books and journals include names of important people, events, dates, and broad concepts.”¹⁷

Indexes are composed of facts and ideas (concepts). While these facts and ideas are derived from the source material, they are arranged in a new and distinctive way. The differentiation from the underlying source text has been shown clearly in a study by McMaster where multiple indexers created indexes from the same source.¹⁸ It was found that the different indexes could vary widely as to metatopic, topic, and heading selection, resulting in a difference in the degree of detail present in each index. The index created by each indexer was distinctly individual.

In Canadian copyright law, ideas and facts are not covered by copyright, only the specific expression of those ideas¹⁹ and facts²⁰ within a work. Because an indexer abstracts the ideas and facts present in the source text and arranges them in an individually unique way, an unauthorized index does not (indeed cannot, given the nature of its composition) infringe the copyright of the underlying source material.

What Now?

As shown in Part 1 of this article, there is a body of

scholarship that holds translations (and adaptations more generally) to be distinct original works in their own right. As original works, they do not infringe the copyright of the source text, whether the translation/adaptation is authorized or not. This argument can be applied even more forcefully to the consideration of an unauthorized index.

While some Canadian legal scholars might hold it as axiomatic that an unauthorized index would infringe the copyright of the source text, there is a clear likelihood they are incorrect. Arguments based on substantiality, UGC, and index structure show that, first, an index does not infringe, as it does not substantially duplicate the expression of the underlying work; second, an unauthorized index does not infringe, as it falls under the UGC exception to copyright; and third, because of the “ideas and facts” structure of an index, it is incapable of infringing the source text, as facts and ideas are not entitled to copyright protection.

Which of these positions the courts would consider correct is presently unknown. However, the weight of argument supports the following answer to the question posed in the original hypothetical: Isabel did not infringe the copyright on Alex’s work.

Acknowledgements

I would like to thank Dr. Michael Geist (Professor, Faculty of Law, University of Ottawa), who suggested I examine the legal status of derivative works and explore their relationship to indexes. I would also like to thank Dr. Graham J. Reynolds (Associate Professor and Associate Dean, Research and International, Peter A. Allard School of Law, University of British Columbia), who provided comments on an earlier version of this article. Any errors here are, of course, my own.

About the Author

Donald Howes is a freelance indexer who provides back-of-book and embedded indexes for a diverse clientele. You can reach him through his website (www.dhindexing.ca) and by email at dwhowes@shaw.ca.

Notes

1. In Part 1 I posed the following hypothetical: “Alex is an author who publishes a non-fiction book that is lacking an index. After publication, Isabel, who is a professional indexer, purchases a copy of the book. Isabel creates an index for Alex’s book, which she then posts on her website, where visitors can view and download the index. Has Isabel infringed Alex’s copyright?”

2. *CCH Canadian Ltd. v. Law Society of Upper Canada*, [2004] 1 SCR 339,

<https://decisions.scc-csc.ca/scc-csc/scc-csc/en/item/2125/index.do>, para 16.

3. William Braithwaite, “Derivative Works in Canadian Copyright Law,” *Osgoode Hall Law Journal* 20, no. 2 (1982): 191–231, <http://digitalcommons.osgoode.yorku.ca/ohlj/vol20/iss2/1>, 211.

4. David Vaver, “Translation and Copyright: A Canadian Focus,” *European Intellectual Property Review* 16, no. 4 (1994):159–66, https://digitalcommons.osgoode.yorku.ca/scholarly_works/1250/, 161.

5. Zener and Etkin (Naomi Zener and Prudence Etkin), “Don’t Get Lost in Translation: Copyright Protection in Translated Works,” 2021, <https://www.bereskinparr.com/doc/don-t-get-lost-in-translation-copyright-protection-in-translated-works>.

6. It is important to remember that the author of a derived work (in this case an index) holds copyright in that work separately from the copyright held by the author of the source text. This holds true for either an authorized or unauthorized derived work.

7. The concept of user rights is not addressed in the Copyright Act. Prior to the 21st century, copyright exceptions were interpreted narrowly, simply as a defence against an allegation of infringement (see *Bishop v. Stevens* [1990] 2 SCR 467, <https://decisions.scc-csc.ca/scc-csc/scc-csc/en/item/640/index.do>, and *Michelin v. CAW* [1997] 2 FC 306, <https://www.canlii.org/en/ca/fct/doc/1996/1996canlii11755/1996canlii11755.html>). This began to change in 2002, when the *Théberge* decision (*Théberge v. Galerie d’Art du Petit Champlain Inc* [2002] 2 SCR 336, <https://scc-csc.lexum.com/scc-csc/scc-csc/en/item/1973/index.do>, paras. 31–33) first articulated the idea that the copyright exceptions present in the Act are not just a defence against infringement but should have equal weight with the rights of the copyright holder. This doctrine was fully articulated in the *CCH* decision of 2004, where the Court stated:

The fair dealing exception, like other exceptions in the Copyright Act, is a user’s right. In order to maintain the proper balance between the rights of a copyright owner and users’ interests, it must not be interpreted restrictively. As Professor Vaver has explained “User rights are not just loopholes. Both owner rights and user rights should therefore be given the fair and balanced reading that befits remedial legislation.” (para. 48, citation omitted; emphasis added).

With the five copyright decisions in 2012, and most recently with the *York University* decision in 2021 (*York University v. Canadian Copyright Licensing Agency* [Access Copyright], [2021] SCC 32, <https://decisions.scc-csc.ca/scc-csc/scc-csc/en/item/18972/index.do>), the Court has reaffirmed the doctrine of user rights as a counterbalance to the economic rights of the copyright owner. As Michael Geist has said, “the users’ rights framework has attracted growing attention worldwide, as Canadian copyright law is increasingly cited as the paradigm example for emphasizing both creator and user rights”; Michael Geist, ed., *The Copyright Pentology: How the Supreme Court of Canada Shook the Foundations of Canadian Copyright Law* (Ottawa: University of Ottawa Press, 2013), iii–iv, <https://canlii.ca/t/nh>.

For literary works and the application of user rights, the three most important Supreme Court decisions are *CCH* (see note 2 and above),

Alberta Education (Alberta [Education] v. Canadian Copyright Licensing Agency [Access Copyright], [2012] 2 SCR 345, <https://decisions.scc-csc.ca/scc-csc/scc-csc/en/item/9997/index.do>), and York University.

For a recent overview of the concept of user rights, see Saleh Al-Sharieh, "Securing the Future of Copyright Users' Rights in Canada," *Windsor Yearbook on Access to Justice* 35 (2018): 11–59, <https://canlii.ca/t/2bdw>. A detailed study of the five 2012 copyright cases can be found in Geist, *Copyright Pentalogy*. See also Michael Geist, "Copyright Vindication: Supreme Court Confirms Access Copyright Tariff Not Mandatory, Lower Court Fair Dealing Analysis Was 'Tainted,'" 2021, <https://www.michaelgeist.ca/2021/08/copyright-vindication-supreme-court-confirms-access-copyright-tariff-not-mandatory-lower-court-fair-dealing-analysis-was-tainted>, and "Same Old Spin: Why Access Copyright Needs a Reality Check on Canadian Copyright," 2021, <https://www.michaelgeist.ca/2021/08/same-old-spin-why-access-copyright-needs-a-reality-check-on-canadian-copyright>; Martin Kratz, "Supreme Court: Collective Copyright Licenses Are Not Mandatory," 2021, <https://www.slaw.ca/2021/08/25/supreme-court-collective-copyright-licenses-are-not-mandatory/>; and John Willinsky, "Supreme Court Rules on Copyright in the University," 2021, <https://www.slaw.ca/2021/09/07/supreme-court-rules-on-copyright-in-the-university/> for discussion of the York University decision. Both Al-Sharieh and Reynolds have argued that the Canadian Charter of Rights and Freedoms (<https://laws-lois.justice.gc.ca/eng/const/page-12.html>) should be applied to interpretation of the Copyright Act in order to provide legislative support for user rights; see Graham Reynolds, "The Limits of Statutory Interpretation: Towards Explicit Engagement, by the Supreme Court of Canada, with the Charter Right to Freedom of Expression in the Context of Copyright," *Queen's Law Journal* 41, no. 2 (2016): 455–500, https://commons.allard.ubc.ca/fac_pubs/397/, and "Reconsidering Copyright's Constitutionality," *Osgoode Hall Law Journal* 53, no. 3 (2016): 898–947, <http://digitalcommons.osgoode.yorku.ca/ohlj/vol53/iss3/5>.

8. Copyright Act (R.S.C., 1985, c. C-42, <https://laws-lois.justice.gc.ca/eng/acts/c-42/fulltext.html>), s. 14.1(1). The best-known Canadian moral rights case that turns on maintenance of the integrity of the work is *Snow v. The Eaton Centre Ltd.*, 70 CPR (2d) 105, <https://h2o.law.harvard.edu/cases/2708>. The judgment in that case relied entirely on the subjective opinion of the artist. More recent decisions acknowledge that determination of a moral rights violation has both a subjective and an objective component. See *Maltz v. Witterick*, 2016 FC 524 (CanLII), <https://canlii.ca/t/gr8mf>, para. 49; *Wiseau Studio, LLC et al. v. Harper et al.*, 2020 ONSC 2504, <https://canlii.ca/t/j6w8w>, paras. 203–4.

9. *Cinar Corporation v. Robinson* [2013] 3 SCR 1168, <https://decisions.scc-csc.ca/scc-csc/scc-csc/en/item/13390/index.do>.

10. Barry Sookman, "Robinson v. Cinar in the Supreme Court," 2013, <https://www.barrysookman.com/2013/12/24/robinson-v-cinar-in-the-supreme-court>. This point is also made by Mireille van Eechoud, "Adapting the Work," in *The Work of Authorship* (Amsterdam: University of Amsterdam Press, 2014), 145–73.

11. Basalamah holds that translations cannot infringe the translated work, stating:

On the one hand, the language (the form) of the work changes, and,

on the other, the work passes from one set of culturally-influenced potential interpretations or readings to another, thereby adding a supplementary dimension to the original. The resulting translation necessarily escapes the original's interpretative determinations ... how can the original remain present within the translation, when the change in language constitutes a major change in form, and it is the form alone—the expression—which is protected under copyright?

Salah Basalamah, "Translation Rights and the Philosophy of Translation," in *Translation: Reflections, Refractions, Transformations*, edited by Paul St-Pierre and Prafulla C. Kar, 117–32 (Amsterdam: John Benjamins, 2007), 122.

12. See Dan Ruimy, *Statutory Review of the Copyright Act* (Ottawa: House of Commons, 2019), 72–74, <https://www.ourcommons.ca/Content/Committee/421/INDU/Reports/RP10537003/indurp16/indurp16-e.pdf>.

13. "Web 2.0"—also known as participative (or participatory) web and social web—refers to websites that emphasize user-generated content, ease of use, participatory culture, and interoperability (i.e., compatibility with other products, systems, and devices) for end users. https://en.wikipedia.org/wiki/Web_2.0.

14. As is made clear by Powell, who states:

Creative appropriation refers to the repurposing and re-contextualizing of an existing creative work or elements of it into a new work. Appropriation as a creative method can be used to convey new and original ideas through the use of existing expressions. Appropriation has occurred long before modern copyright laws were adopted and has always played a fundamental role in creative processes and in artistic and self-expression. Borrowing and taking inspiration from existing works has been common practice throughout history: artists have often re-examined existing works through new artistic styles or based their own work on existing ones. Creative works are never created in a complete social or cultural vacuum.

Linda Powell, "Non-commercial User-Generated Content and Exceptions to Copyright" (master's thesis, University of Turku, Finland, 2020), 1, https://www.utupub.fi/bitstream/handle/10024/150523/Powell_Linda_Thesis.pdf.

15. Teresa Scassa, "The UGC Exception: Copyright for the Digital Age," 2013, https://www.teresascassa.ca/index.php?option=com_k2&view=item&id=142:the-ugc-exception-copyright-for-the-digital-age. See also Teresa Scassa, "Acknowledging Copyright's Illegitimate Offspring: User-Generated Content and Canadian Copyright Law," in Geist, *Copyright Pentalogy*, 431–53, where she examines the UGC exception in detail. More recently Awan has argued that, with the increasing sophistication of UGC, the lines between amateur/non-commercial and professional/commercial are becoming increasingly arbitrary and cannot be maintained; Mariam Awan, "The User-Generated Content Exception: Moving away from a Non-commercial Requirement," *Canadian Intellectual Property Review* 32 (2016): 12.

16. Dennis Duncan, *Index, A History of the: A Bookish Adventure* (London: Allen Lane, 2021), 4. Note the similarity of his language with that used

by Basalamah in describing the process of translation in “Translation Rights.”

17. Linda Fetters, *Handbook of Indexing Techniques: A Guide for Beginning Indexers*, 5th ed. (Medford, NJ: Information Today, 2013), 13.

18. Max McMaster, “Same Publication + Many Indexers = ???” *The Indexer* 30, no. 2 (2012): 98–100.

19. For the public domain nature of ideas, see CCH, paras. 8 and 22; David Vaver, *Intellectual Property Law: Copyright, Patents, Trade-Marks*, 2nd ed. (Toronto: Irwin Law, 2011), 158; Cinar, para. 24; and MacNutt v. Acadia University, 2016 NSSC 160 (CanLII), <https://canlii.ca/t/g55qk>, para. 34.

20. For the public domain nature of facts, see CCH, para. 22; Maltz v. Witterick; Winkler v. Hendley, 2021 FC 498 (CanLII), <https://canlii.ca/t/jg4zp>. Scassa notes that copyright can subsist in the specific

expression of facts in a work, but not in the facts themselves; Teresa Scassa, “Information Law in the Platform Economy: Ownership, Control, and Reuse of Platform Data,” in *Law and the “Sharing Economy”: Regulating Online Market Platforms*, edited by Derek McKee, Finn Makela and Teresa Scassa, 149–94 (Ottawa: University of Ottawa Press, 2018), 168, <https://canlii.ca/t/2cxf>.

The following example makes clear the distinction between the expression of facts and the facts themselves: Suppose an individual creates a historical table of seasonal water levels for major British Columbia rivers. This table is protected by copyright, and if you reuse the table without permission, you have infringed that copyright. However, if you use the data from that table to produce a series of graphs for seasonal water levels, you have not infringed copyright (and indeed, hold copyright on the graphs). This is because copyright protects the form in which data is presented, not the data itself.

Crossword Solution

S	E	Y	R		Y	S	S	E	M		T	N	E	S	E	R
E	R	E			H	G	A	R	A		C	T	I	E	C	A
T	L	E	V	E	S	O	O	R	T		E	U	R	S	N	E
O	R	T	I	N		L	R	L	U		R	E	A	C	U	O
N	E	T	A	O		C	A	R	A		R	I	M	A		
E	V	A	W		K	N	I		S	O	D	A		E	T	A
D	O	C		H		C	U	M	W	O	H		S	G	A	A
			S		I			O	A	A			D	A	R	B
			W	O	N	K	Y	E	H	T	L	I	T	N	U	
T	S	E	R		A	V	O			K	E	E				
A	M	L	E	S		W	O	N	K	U	O	Y		R	E	P
E	E	B		Y	A	R	C			A	L		D	E	P	O
			S	A	R	A		N	O	E		R	E	T	O	T
H	C	U	M	W	O	H		A	L	T		E	K	A	T	S
S	E	L	E	R	G		S	E	A	R	C	E	N	O	O	N
A	L	O	C	O	N		K	A	L	A		L	O	S	L	O
S	A	T	I	N	A		N	O	O	P	S		H	G	I	N

Solution to Crossword Puzzle “Heart over Head”

I came across this quotation while training for a peer leadership role. The sentiment resonated with me, so when it was time to create a fall puzzle I decided to use it. Only after the puzzle was complete did I look into the quote’s source, and I confess to being a little dismayed to discover its origins in political speech-making; I was hoping for something loftier.

Although I haven’t been able to identify a transcript or other primary source, the quotation is commonly attributed to Theodore Roosevelt, speaking in Chicago on 17 June 1912. It allegedly formed part of a speech calling his followers to form a new Progressive Party (popularly called the Bull Moose Party after Roosevelt claimed he felt “strong as a bull moose”) in advance of that year’s U.S. presidential election. In the end, the November 1912 election was won handily by Democrat Woodrow Wilson, with Bull Moose Roosevelt second, Republican William Taft third and Socialist Eugene Debs a distant fourth. The Progressive Party collapsed four years later.

Heather Ebbs

Announcements

Editor's Corner

Jolanta N. Komornicka

The discussions in this column are meant to help indexers make decisions when a text does not provide guidance. Nothing here should be taken as prescriptive, nor is it intended to replace the author's words with the indexer's.

Hyphenating Identities

The hyphen has long been used, both in noun and adjective formulations, to designate an individual's dual heritage. That hyphen, though, can do more to disconnect people than connect them, creating an idea of otherness. For example, a term such as Mexican-Canadian can suggest that individuals to whom the qualifier is applied are not fully Canadian (or American, British, etc.). The word to the left of the hyphen becomes of equal weight to the one that follows, leaving the individual in a neither/nor state.

Without the hyphen, advocates have argued, the

leftmost term becomes an adjective. A person can be a Mexican Canadian as well as a foodie Canadian, an educated Canadian, and so forth. The othering is diminished, if not eliminated, the punctuation no longer serving to disconnect them from the rest of society. As of 2022, the Associated Press Stylebook, the BuzzFeed Style Guide, and the *New York Times* have all dropped the hyphen from terms such as Vietnamese Canadian, African American, etc.

To read more on this topic, I recommend the late Henry Fuhrmann's excellent 2018 article in the Conscious Style Guide, "Drop the Hyphen in Asian American," which helped spur the changes at BuzzFeed and the AP: <https://consciousstyleguide.com/drop-hyphen-asian-american/>.

If you have ideas for future Editor's Corner articles, please contact jnk@closerreadingie.com.

ISC/SCI Library Program

Hello ISC/SCI members,

We're pleased to announce we will begin a pilot program for the new ISC/SCI Library program. While important resources will also need to be purchased, we'd like to appeal to members who may be willing to donate books to this new program.

Maybe you're nearing the end of your career or maybe you have resources you no longer use and are gathering dust on your shelf.

Pickup may be arranged in the Greater Toronto area, or we will reimburse you for your Canada Post costs. Please email us at library@indexers.ca if this looks like something you could help out with.

Thank you very much,

Margaret de Boer and Carlisle Froese, ISC/SCI Library Program

Volunteers Needed, December 2022

Alexandra Peace

Thank you as always to all the volunteers who devote time and energy to the Society. We all benefit greatly from it; if you are unable to volunteer at this time, no worries!

Conference 2023

Yes! Unbelievable as it is, we are starting to think about next year. And, cross your fingers, nose, and toes, it might even be in person. The conference committee consists of six people, each with their own tasks, who come together to make decisions as a collective. Team players need apply! We are still short one person for this committee, so if you would like to dip your toes in here, come on over.

Social Media Committee

At the moment, we have someone (thanks, Ren!) who is posting what is given to them by the communications director, but we really need a few people to be on a committee to determine what to say and when.

Outreach

We could be getting more information from others and to others through various events, such as Word on the Street and FOLD (Festival of Literary Diversity). However, we need someone to organize going to these events—that is, keeping track of when they are, who is going, and what they need—and we need some to attend the events. Anyone?

Webinars

We have a webinar coordinator and someone else with good ideas. However, the committee could use a nuts-and-bolts person to help think about registration forms,

payment options, and so forth. If you like those details, the committee would be grateful for your contributions. We could also use a webinar host: someone to welcome the presenter, introduce the topic of the webinar, keep an eye on the chat and run the Q&A, and so forth.

Ad Hoc Committees

Often, when the executive committee is meeting, we come up with an idea for something that we think will benefit the Society. When this happens, we form an ad hoc committee to do the research and come back with a recommendation. It is great if we can find Society members who are not on the executive committee to belong to these committees. If you would like to help somehow and you are not excited by any of the above ideas, please let me know that you might be available for an ad hoc committee. You are under no obligation to be on any of them, I would just email to ask once in a while, and you could see whether you thought a particular committee might work for you.

Executive Committee

At the next AGM in 2023, our executive committee positions are up for election. Most of the people in positions will continue on, but for various reasons, some won't. Margaret de Boer and Judith Clark will be contacting the present executive committee to find out who will not be continuing and then will be approaching people to fill positions. If you are interested in being on the executive committee, feel free to come to a meeting to find out how much fun we have!

Please contact presidents@indexers.ca to find out more about these volunteer positions.

Membership

ISC/SCI MEMBERSHIP REPORT, NOVEMBER 19, 2022

Julia White, Membership Secretary

As of November 19, 2022, we have 133 memberships. Since the previous report in July, eight new members have joined or rejoined.

Within Canada	108
British Columbia	24
Alberta	10
Saskatchewan	3
Manitoba	1
Ontario	49
Quebec	12
New Brunswick	5
Nova Scotia	3
Prince Edward Island	1
Newfoundland and Labrador	0
Outside Canada	25
Australia	1
India	1
United Kingdom	1
United States	22

Membership types

Individual	126
Basic	43
Listed	78
Student	1
Emeritus	4
Institutional	7
British Columbia	1
Alberta	1
Saskatchewan	1
Ontario	3
Outside Canada	1

New Members

The following members have joined, or rejoined, since the previous report.

Rachel Freedman Stapleton, Basic; Toronto, ON
Kimberly Hayes, Basic; Chicago, IL, USA
Jess Herdman, Listed; Winnipeg, MB
Laurie Hlavaty, Basic; New Paltz, NY, USA
Treava Kellington, Basic; Victoria, BC
Tanvi Mohile, Listed; Edmonton, AB
Alanna Simenson, Basic; Sooke, BC
Jules Sherred, Basic trial; Burnaby, BC
Brittany Vesterback, Listed; Surrey, BC

Changed Your Address?

If you have moved recently, please send your new mailing address to Julia (membership@indexers.ca) so that she can update your subscription to *The Indexer*.

Heart over Head by Heather Ebbs

Across

1. Almost
5. Utensil
10. Bryant and Pointer
16. Not Stockholm or Copenhagen
17. Archaic "darn it!"
18. Out of Pepsi?
19. START OF QUOTE
21. Hail, to Henri
22. Post
23. CBC or NGO, e.g.
24. QUOTE, PART II
25. Carrier
26. Long time
27. Long times
28. Opinions page, in brief
29. Fishing spot, to Henri
30. ___ fish
31. Bonnet dweller?
34. For each
35. QUOTE, PART III
37. Title city of 2014 film
39. Squeal of alarm
40. Egg cells
41. Relax
42. QUOTE, PART IV
47. Shakespeare
49. US eyecare org.
50. Comp. depts
51. Deep anxiety
53. QUOTE, PART V
56. Fish
59. Consumed
60. Bothers
62. Sign
63. Undulate
64. Ruler
65. Circle segment
66. Like porridge
67. QUOTE FINISH
70. WWW address
71. Emergency heart med.
72. Nutritional product
73. Speaker of QUOTE
75. Type of acid
76. Pirate's pronouncement
77. Great lake
78. Posted again
79. Unkempt
80. Cereals

Down

1. Preferred flight
2. Type of atom

1	2	3	4		5	6	7	8	9		10	11	12	13	14	15	
16					17						18						
19					20						21						
22						23					24						
25						26					27						
28					29				30					31	32	33	
34					35				36			37	38				
				39					40				41				
			42				43	44				45	46				
47	48						49					50					
51					52				53		54	55			56	57	58
59					60	61				62				63			
				64					65				66				
67	68	69							70				71				
72									73				74				
75									76						77		
78									79						80		

3. One who relishes enemy's misfortune
4. Blared
5. Body bag?
6. Mesa
7. Thole
8. Sea
9. Defensive white cells, for short
10. Soft fabric
11. Not Sweden's or Denmark's
12. Kavan's first draft
13. Balsam
14. Baldwin or Guinness
15. Cumberbund
20. Ballad's end?
24. She did it ___
29. Trickster in 16 Across
30. Inlet
31. Botched
32. Printer's measures
33. Consume
35. However
36. Not in any way
38. God of love
39. Goals
42. Impulse
43. Pakistan city
44. New Mexico city
45. Thrill, or complaint
46. Greatest (degree)
47. Bleat
48. Worker
52. Lion marmoset
54. Reflects
55. Clears the drain
56. Kitty's hotel
57. Be on top of
58. Indicates
61. Frank
63. Release form
64. Keen
65. Haloes
66. Loneliest number
67. 525,600 minutes
68. Start of many a story
69. Functions
73. Scot's cap
74. Bashful

The Indexer

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Mary Coe

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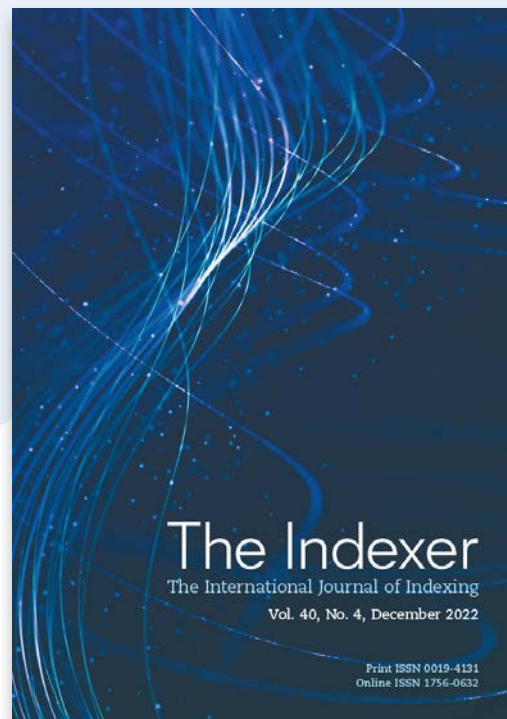
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