**17.10 Copyright Interests—Authors of Collective Works**

**(17 U.S.C. § 201(c))**

An owner of a copyright in a collective work is entitled to exclude others from copying it. A collective work is a work [such as [a newspaper, magazine, or periodical issue] [anthology] [encyclopedia]] in which a number of contributions, constituting separate and independent works in themselves, are selected, coordinated or arranged into an original, collective whole. The person who assembles the contributions of independent works into the collective work is an author and is entitled to copyright.

Copyright in a collective work is distinct from copyright in the separate contributions to a collective work. In the absence of an express transfer of copyright in the separate contribution, the copyright owner of the collective work is presumed to have acquired only the privilege of reproducing and distributing the contribution as part of that particular collective work, any revision of that collective work, and any later collective work in the same series.

A copyright owner of a collective work may enforce the right to exclude others from the work’s original selection, coordination, or arrangement in an action for copyright infringement.

**Comment**

*See* 17 U.S.C. §§ 101 (defining “collective work”), 201(c) (stating that, in absence of express copyright transfer by contributor to author of collective work, it is presumed that copyright owner of collective work acquires “only the privilege of reproducing and distributing the contribution as part of that particular collective work, any revision of that collective work, and any later collective work in the same series”); *Jarvis v. K2 Inc.*, 486 F.3d 526, 530-32 (9th Cir. 2007) (analyzing derivative versus collective works and holding that “collective work privilege” does not apply to derivative works). Whether a contribution to a collective work has been reproduced and distributed as part of a “revision” depends on how it is presented and how it is perceived by users in context. *N.Y. Times Co., Inc. v. Tasini*, 533 U.S. 483, 499-500 (2001) (considering use of contributions to periodicals and other collective works in databases).

Several sections of the Copyright Act concern the placement of the copyright notice on a collective work and on the contributions to the collective work. *See* 17 U.S.C. §§ 401–406. Regarding copyright notice, *see* *Abend* *v. MCA, Inc.*, 863 F.2d 1465, 1469 (9th Cir. 1988) (adopting Second Circuit’s conclusion that copyright notice on collective work is sufficient to obtain valid copyright on behalf of author of contributed work when publication rights are limited and when there are no facts to suggest that author intended to donate work to public), *aff’d*, 495 U.S. 207 (1990). A different treatment applies if a collective work is covered by the Berne Convention Implementation Act, 17 U.S.C. § 405(a) (e.g., works distributed after March 1, 1989). *See Golan v. Holder*, 132 S. Ct. 873, 904 (2012) (noting that in 1989 United States adopted Berne Convention and abolished copyright notice requirement); *see also Unicolors, Inc. v. H&M Hennes & Mauritz, L.P.*, 52 F.4th 1054, 1078 (9th Cir. 2022)(discussing foreign copyrights under Berne Convention).

*Revised Dec. 2022*