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## Supreme Court Rules That Online Databases May Not Incorporate Works by Freelance Writers without Specific Permission

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In a decision that could reshape the content of online databases, the Supreme Court has held that publishers must obtain specific permission from freelance writers before republishing the writers' works in searchable Web sites or other electronic databases. The Supreme Court's decision upheld a 1999 ruling of a New York federal appeals court, which was discussed in our [November 9, 1999 Internet Alert](#). The Supreme Court's decision only impacts works written by freelance writers, not staff writers or other employees who create "works for hire."

In *New York Times v. Tasini*, the Court held that the 1976 amendments to the Copyright Act granted freelancers republication rights in their works unless republication occurred as a "revision" of the original "collective work" in which the work first appeared. Although the New York Times had obtained permission from freelance writers to publish the writers' works in the original newspapers in which they appeared, and therefore would have had the right under the Copyright Act to republish the entire newspaper again as a "revision," the New York Times did not have the right under the Copyright Act to include the freelance writers' articles in a searchable online database where the works would appear in isolation. The Supreme Court stated that such republication could not be a "revision" of the original "collective work" because the writers' works appear in the online database as stand-alone articles, "disconnected from their original context."

How the case will affect the content of online databases remains unclear. The New York Times argued that the Court's decision would require the removal of thousands of articles from online databases and searchable Web sites. The Supreme Court gave little weight to that argument, stating that writers and the publishers could enter into agreements allowing electronic reproduction. Indeed, the future impact of *Tasini* may have little practical importance because most major publishers have required freelance writers to grant specific permission to republish the articles in online databases since the early 1990's.

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