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TO: All Registrants for SAA Copyright Fort Worth, Texas Workshop
FROM: William J. Maher
SUBJECT: Welcome to Workshop and Comments on Readings
DATE: October 4, 2009

This “mailing” includes introductory comments, the list of readings for the workshop, and the outline/agenda/schedule for the workshop.

In selecting items for the pre-workshop readings, I have sought to include materials that provide background on some of the larger issues of copyright and intellectual property. In some cases, these may not have an immediate archival relevance but instead reflect issues that are currently developing, and other broader forces that have or will affect how much freedom archivists may have to deal with intellectual property. In the years since the expansion of the internet and simultaneous efforts to amend the Berne Copyright Treaty and form the World Intellectual Property Organization (1996), there has been increasing attention in the popular press to how efforts to tighten controls on unauthorized copying start to impinge on many others than just the “pirates.”

As you plan your reading, you might want to consider the following:

The ALA (Digital Rights Management) item is an example of a strong advocacy piece for a less restrictive copyright environment. As it makes its case, it explains the context in which copyright generally fits for archivists, since we are participants in a “republic of letters.”

Hilton’s short piece from *Educause* “In Praising of Sharing” evinces an academic view towards copyright as a matter of sharing rather than a means of enforcing ownership.

I would strongly encourage you to look carefully at my *Copyright Chronology*. This is more than just a souvenir of my time in Early Modern European history. Instead, pay particular attention to the sequence of U.S. court cases that are noted. You will not be quizzed on these, but being familiar with some of the names and subjects of the cases will help when we get to the explication of the meaning of “Fair Use.”

The 1998 publication date for Charles Mann’s item from *The Atlantic* make it seem dated, but this is still the very best overview article. It sets the context to understand the broader commercial, cultural, and legal world in which archival copyright concerns reside.

The Zaret article is good, covering some of the same territory as Mann, and if you are pressed for time, you could read Zaret carefully and skip Mann until later.

Finally, there is *Circular 92* which is the text of the copyright law itself. I have deliberately asked that the SAA not include that in what they mail to you. Rather, it will

be provided to you on-site at the workshop. The law is a complicated and intimidating document that seems designed to confuse. Although you could easily find *Circular 92* online, I strongly recommend that you not try to read it in advance. One of the goals of the workshop is to teach you how to read key sections of it without too much angst.

If you happen to have a few moments at a computer before the meeting, you might want to do a little websurfing of the Copyright Office's site just to see the kinds of information that they make available there, especially in their *Circulars*. You would start your browsing at: <http://www.copyright.gov/> But, please do no more than surf around to get an idea of the general categories of information made available.

Meanwhile, if you have any questions about the readings or anything else I should do to prepare for you to get the most out of the Workshop, please contact me at w-maher@uiuc.edu.

I look forward to seeing you in Fort Worth.

SAA Workshop
Copyright: The Archivist and the Law
READINGS, 5-6 November 2009

American Library Association. *Digital Rights Management (DRM) and Libraries*,
<http://www.ala.org/ala/aboutala/offices/wo/woissues/copyrightb/digitalrights/digitalrightsmanagement.cfm>

Hilton, James L. "In Praise of Sharing," *Educause*, 40:3 (May-June, 2005): 72-73, available at:
<http://www.educause.edu/apps/er/erm05/erm05310.asp>

Hirtle, Peter. "Unpublished Materials, New Technologies, and Copyright: Facilitating Scholarly Use," *Journal of the Copyright Society of the USA* 49 (Fall 2001): 259-75. A pre-print version is available at:
http://ecommons.library.cornell.edu/bitstream/1813/58/2/Hirtle_OSU_paper.pdf

Maher, William, *Copyright Chronology*, 2008 see:
<http://www.library.uiuc.edu/archives/workpap/CHRONOUT.pdf>

Mann, Charles, "Who Will Own Your Next Good Idea." *Atlantic Monthly* (September, 1998): 57-82, available free at the *Atlantic Monthly's* website:
<http://www.theatlantic.com/issues/98sep/copy.htm>

Society of American Archivists. "Basic Principles for Managing Intellectual Property in the Digital Environment: An Archival Perspective." *Archival Outlook* November/December, 1997.

Zaret, Elliott, "Access Denied: The Limits of Fair Use," *Washington Lawyer*, February 2003.
http://www.dcbar.org/for_lawyers/resources/publications/washington_lawyer/february_2003/access.cfm

DO NOT ATTEMPT TO READ OR SKIM THE FOLLOWING UNTIL *AFTER* THE WORKSHOP :

United States Copyright Office. (2007). *Circular 92: Copyright Law of the United States and Related Laws Contained in Title 17 of the United States Code*.
www.loc.gov/copyright/title17/ [Selected pages only.]

SAA COPYRIGHT WORKSHOP

Fort Worth, Texas

Thursday-Friday 5-6 November 2009

Thursday 5 November 2009 (9:00-5:00)

- 1.1 Introduction: survey of audience, global context in info age, and caveats
 - 1.2 Review of Bibliography
 - 1.3 Group Exercise I: What is copyright? Whose rights are these?
 - 1.4 Definitions of copyright, patents, trademarks, and trade secrets. Issues not in scope.
 - 2 **10:15-10:30** Break
 - 2.1 History of copyright-4th century B.C.E. to Salinger (1987) and Eldred (2003)
 - 2.2 Where U.S. copyright resides. Overview of the recording of the federal statute.
 - 2.3 Review of Title 17, § 101 - 106 (Definitions, Scope, Restored Works, Exclusive Rights)

 - 12:00-1:15** Lunch
Individual Work–Copyright Quiz

 - 3 **1:15-2:15** Review of Title 17, § 107 (Fair Use)
 - 4 **2:15-2:30** Break
 - 4.1 Review of Title 17 § 108 - 122 (Library, First Sale, Education and other Exemptions)
 - 4.2 Review of Title 17 § 201 - 305 (Ownership, Transfers, and Duration)
 - 5 **3:30-3:45** Break
 - 5.1 Small Group Work–Copyright Quiz
 - 5.2 Review of Title 17 § 401 - 511 (Notice, Remedies and Limitations on Liabilities)
 - 5.3 What is not a matter of copyright: privacy and publicity, moral rights.
 - 5.4 Presentation of case study exercises. Division into teams for work overnight
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Friday 6 November 2009 (8:30-4:30)

- 6 **8:30-9:00** Convene in working groups to discuss case studies.
- 7 **9:00-10:30** Reports and analysis of case studies.
- 8 **10:30-10:45** Break
- 8.1 Archival policies to implement: deeds, userforms, copy notices, licensing
- 8.2 “Things that Go Bump in the Night” (Congress, UCITA, Hague Convention, ACTA, etc.)

- 12:00- 1:00** Lunch
Small Group Work–Copyright Quiz

- 9 **1:00-2:30** Questions and answers regarding specific copyright problems faced by attendees.
- 10 **2:30-2:45** Break
- 10.1 **2:45-3:45** Copyright Quiz Answers and Remaining Individual Case Questions
- 10.2 **4:00-4:30** Comments and evaluation questionnaire

DISCLAIMER: The instructor is not a lawyer, and is not offering legal advice. The materials provided with this workshop are not presented as legal advice but as an outline of key copyright concepts. You should familiarize yourself with copyright laws and recognize that it may be necessary for you to consult with your institutional legal counsel for advice for assistance in specific cases.