



**SOCIETY OF
American
Archivists**

**Statement of SAA Representative to WIPO
Standing Committee on Copyright and Related Rights
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The Society of American Archivists, North America's largest professional archival organization, congratulates you on your continued leadership of the committee and thanks the Secretariat for their hard-work and graciousness in preparing these meetings. Because our members manage billions of primary source works from throughout the world, SAA cares deeply about copyright's system of incentives, but we are equally concerned about the strong disincentives the system provides for using our collections to create new works.

The fundamental premise for an international system to manage copyright is to provide predictability on matters of term, scope of coverage, and nature of exclusive rights for material destined for commercial publication. Berne and the WIPO copyright treaties have done that rather well.

But there is an entire other universe of intellectual material that has always existed almost entirely outside the commercial world—archival records, unpublished material, and other items whose creation never had commercial intent. To put this universe into perspective, the top 108 North American academic libraries hold more than 420 million books, but their archives hold more than 6 billion unpublished works. Only by contemplating the vastness of this disparity on a global level can WIPO begin to understand why archives are desperate for a modern, international system of exceptions. By continually trying to force the round archives peg into the square commercial hole, the current copyright regime merely succeeds in showcasing how absurd and unworkable the existing system is.

The problem lies in the very foundation of the Berne Convention, which assumes anything committed to a fixed medium is a commercial object. That's just not true when it comes to archives. Reopening Berne could solve this problem at its root by adopting a modern, accessible version of formalities. Short of that, however, it's time for WIPO to recognize that archives are not and never have been about commerce. Now is the time to create predictable and balanced exceptions across all borders.



The Society of American Archivists (SAA) is the oldest and largest association of professional archivists in North America. Representing more than 6,200 individual and institutional members, SAA is the authoritative voice in the United States on issues that affect the identification, preservation, and use of historical records. SAA serves the education and information needs of its members and provides leadership to help ensure the identification, preservation, and use of the nation's historical record.

Since the 1960s, SAA has spoken in regard to archives and intellectual property and has issued more than 20 policy statements on copyright since the mid-1990s. SAA believes that archivists must take an active role in promoting the importance of archives and archivists in order to increase public support, shape public policy, and obtain the resources necessary to protect the accessibility of archival records that serve cultural functions as well as ensure the protection of citizens' rights, the accountability of organizations and governments, and the accessibility of historical records. Further, archivists promote and provide the widest possible accessibility of materials, consistent with any mandatory access restrictions. Although access may be limited in some instances, archivists seek to promote open access and use when possible.

Archivists are the custodians of writings and other materials that have been created by their own organizations and by third-party authors. Archivists try to provide access to these materials within the bounds of law, donor concerns, and public policy. Yet, copyright law is perhaps the most important challenge that archivists face in providing wider access to our collections, especially digitally. It is also a challenge for the students and scholars wishing to use our collections in their research and study.

SAA created the Intellectual Property Working Group in May 2001. The Working Group responds to requests for assistance from the SAA Governing Council, tracks intellectual property issues of concern to archivists, and drafts responses or position papers for the Council as needed.

William Maher was SAA President (1997-98) and Treasurer (1991-94). He is University Archivist and Professor of Library Administration (1995-) at the University of Illinois at Urbana-Champaign (UIUC). Previously, was Assistant University Archivist at UIUC (1977-85 & 1985-95) and Program Officer at the U.S. National Endowment for the Humanities (1985-86). He also served as President (1987-89) and Secretary-Treasurer (1981-85) of the Midwest Archives Conference. He is Chair/Président of the International Council on Archives' Section on the Archives of Universities and Research Institutions (ICA/SUV). As the author of one book and more than 25 articles, he is a regular speaker on university archival administration, archives and history, and copyright law. He has taught hundreds of students in SAA's workshop on Copyright for Archivists since 2000.

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