

**SAA Intellectual Property Working Group
July 26, 2017, Portland, Oregon
Meeting minutes**

Meeting called to order at 8:04

Attending:

WG members: Aprille (Chair), Eric (recording), Jean (via Skype), Cathy, Menzi, Jasmine, Bill, Peter, Heather, Courtney (Council liaison)

Guests: Virginia Millington (StoryCorps), Michael Seminara (University of South Dakota), Arlene Yu (NYPL Dance Division), Dennis Riley (NY State Archives), Rachel Mandell (USC), Courtney Don (UCLA)

Council update (Courtney)

- Council met Monday
 - Business meeting is Friday
 - Statement concerns about annual meeting in Austin
- SAA won't meet in Austin if legislation passes [update: SAA will meet in Austin]
- Independent archivists section
- Membership survey (barriers to membership)
- Procedures and criteria for funding requests
- Need new and robust guidelines; finance committee presented first draft.
- Aprille requested direct communication with leaders for deadlines (funding, staff deadlines, archival outlook deadlines, etc.)
- Actual dates are blocked
- Approved SAA support of ICA to approve
 - Principles of access
 - Roles of archives and records managers in support of human rights

The Working Group remembered longtime and founding member, Mark Greene

Peter gave a memory

- May 2001, Susan fox proposed the WG because IP issues are complex and require special expertise. Original members = Mark, Peter, Bill. Council also recommended including an intern. IPWG's first meeting was 2001. Mark was serving on council at the time, Peter was coming off council, Bill was recent past president. It was good to have people who understood the inner workings of the society.
- Mark was always apologetic about his IP knowledge, but always had something to contribute. He could always be counted on to parse out the important item in a problematic discussion. Mark was a working archivist; he could always pull things out of his practical experience.
- CTEA had passed, worrying about how it would play out; Mark did a wonderful job making every document better.

- Because he was tracking things going on in Australia, he would often point out things important to Australians.
- Mark was also interested in computer museum issues, abandonment.
- Peter's writing about permission denied because he couldn't get permission from the Civil War soldiers
- Mark was interested in lots of things and had a remarkable breadth, from deaccessioning, to student privacy, to IP, to completely rethinking the way we process collections.

Bill

- Bill said he has many nice stories about Mark involving Single Malt; As recently as April, he was present for Mark's induction as an emeritus member. "Mark held forth at one end of the table, about merits of this malt or that. Mark bore well the fact that people found him intense, nerdy."
- Mark was always the person in the room who came up with the thing that no one had considered that reframed the document ("well, there goes Mark again")
- Mark was impatient with obfuscation. Things needed to be clear so that someone who didn't know the subject could benefit from them.

Aprille

- Added that Mark was very free with career advice.

Heather

- Mark was very welcoming into the group
- As chair, it was wonderful to have Mark as the group. When Bill and Peter were having one of their debates, she could always rely on Mark to take all of that and bring it together, so that we'd get an amazing document to send to council. "If I could get it to Peter, Bill, and Mark, then whatever we were sending to Council was the best we could get."
- Mark was always approachable

Jean

- Mark was one of the most balanced and fair people; he could look at all sides, could come up with a great balance of interests. "One of the people who I felt privileged to know."

There was an open mic appreciation of Mark on Wednesday 9-10 Hilton Portland,

International advocacy planning SCCR

Bill shared his report

- Archives are international; yet copyright is really national. Rule of Berne is national treatment, every country can set its own laws. Exceptions can vary from country to country rather significantly
- Goal for the effort at WIPO, based on IFLA initiative, is to get a uniform set of exceptions that would be compatible with the digital world

It's important because:

- We have the opportunity to have an international mandate for improvement
- If some proposal comes through at an international level that could weaken our exceptions we could respond
- Archival issues brought forward by archivists, not librarians

Things at WIPO move very slowly. Member state delegates (esp. EU and USA) have trouble understanding that an exception to copyright could be beneficial. Marrakech helped that, some. It's easier now to imagine that exceptions could be part of a treaty. Libraries and archives are the next target (since 2013, reviving a document from 2011). Among the issues: preservation; copies across borders; TPM exceptions. (Content industries want no exceptions for LMAs)

SCCR's new chair takes over in November

- promised further work on the topic
- which can move forward to developing language
- EU : no exceptions, no sense working on language
- BUT it's on the agenda

Museums should be added to the mix

Jean:

- Is encouraged by new chair (who worked with national archivist of Singapore)
- Liked his open mind and willingness to dive in and make suggestions
- Member states don't like it when the administrators push
- Member states think they're driving the bus (but there are too many steering wheels on the bus)

*** Need examples of cross-border issues

*** Cast a wider net for examples

General assembly actions in October will bear on SCCR in November (GA has authority over SCCR)

Peter:

- TCE initiative at WIPO seemed to be going away, but effort seems to be renewed, so we may need to be worried again
- Jean/ICA worried about that, too. Activity is sudden
- Includes traditional knowledge, patents, folklore, etc.
 - Lawsuits from German museum against Wikimedia
- Photographs of public domain works on wikimedia; sued in Germany by german museum for delivering photographs. Lost every time. ECJ will probably hear the case. DO we need to worry about all international laws and/or put geo filters?

- Right to be forgotten in Belgium (must deindex AND remove content) and Canada (must deindex worldwide)

There was some discussion about DRM and HTML5, and whether this is something we can/should be involved in.

*** Are there any SAA members on the W3C?

Domestic advocacy planning

Eric gave an update on two new bills. H.R. 3301, the “CLASSICS Act” would provide a royalty right for owners of pre-1972 sound recordings, without fully federalizing their copyright. H.R. 3350 would create a registration requirement as a prerequisite to any action over certain public performances of sound recordings.

Heather reported on the bill to make the Register of Copyrights a presidential appointee. Happily, the bill seems to be dead, though we still don't have a Register.

Net neutrality was brought up.

- There was some question on whether this is an IP issue, and what is the archival angle. Is it an ethics committee question?

Term extension

The WG discussed the approaching expiration of copyright terms covered by the CTEA, and the possibility that a further term extension bill may be brought.

- Mexico's 100 years PMA was mentioned as possible precedent for “harmonization.”
- No one has heard of any movement on the possibility.
- Disney has appeared to move toward trademark emphasis (e.g., Steamboat Willie at beginning of movies). May point toward acceptance of current terms. Disney was not the only party pushing, though (cf. Irving Berlin, the Gershwins)
- NAFTA was mentioned as a possible origin of a term extension (because of Mexico)
- NAFTA doesn't have much to do with copyright
- Trump and NAFTA aren't exactly friendly. Negotiations starting soon

Sec. 1201 rulemaking

The WG discussed the upcoming round of rulemaking, and whether Sec. 1201 is actually an issue that affects archivists' work. Digital preservation was mentioned as one area where it might.

** An idea was raised to conduct a digital preservation survey to find examples of archives who are doing or want to do things?

Dennis (CoPP)

- Updating policy on copyright

- The WG discussed building relationships with members of Congress, possibly in conjunction with the Annual meeting in DC, doing hill visits.

Improving communication

The WG discussed our communication strategy. Examples:

- doing a better job of communication of rights statements
- making better use of social media; retweeting whenever possible, etc.
- publishing in archival outlook
- creating a communication plan—check list of all the places to communicate (has issues and advocacy already done this?)

****Aprille will draft a communications policy**

Franklin Award

The WG discussed and approved nominating Peter Jaszi for Franklin Award

Session ideas

We're nominating Peter Jaszi. Maybe he could speak?

Michael Carroll / CC licenses?

- how to incorporate CC into a deed of gift
- model deed of gift

Jasmine's Internship

The group thanked Jasmine for her service. Some highlights:

Traveled to WDC to help lobby

Began the WG's Communications policy

Created a twitter policy

Jasmine thanked the WG, and especially thanked Peter for his mentorship on the lobbying trip