

Intellectual Property Working Group Meeting at SAA 2016
Wednesday, August 3, 2016, 9 am to 12 pm
Room 207, Hilton Atlanta Hotel

Working group attendees: Aprille McKay (chair), Menzi Berhnd-Klodt, Heather Briston, Eric Harbeson, Peter Hirtle, Jasmine Jones (notetaker), and William Maher.

SAA Council liaisons: Lisa Mangiafico (outgoing), Courtney Chartier (incoming).

Members not present: Jean Dryden, Cathy Henderson, Mark Greene, David Sutton.

Visitors: Dennis Riley (New York State Archives and incoming chair of Committee on Public Policy -- dennis.riley@nysed.gov), Chelsea Stone (Sacred Heart University -- stonec7@sacredheart.edu), Kay Garsnett (Marine Laboratory & Aquarium -- kgarsnett@mote.org), Chloe Pascual (CSU Long Beach -- chloe.pascual@csulb.edu), Elizabeth Miles (Church History Library -- milese@ldschurch.org)

- Welcome to new attendees. Review of order of agenda items. (Aprille)
- Thanks to outgoing Council Rep Lisa Mangiafico, and welcome to new Rep Courtney Chartier.
- Review of objectives and tactics for SCCR (Bill)
 - SCCR report was circulated to Council.
 - Bill recently attended a meeting in NYC about SCCR strategy -- what is the strategy for after the 11th topic?
 - Attendees: 2 IFLA representatives; Winston Tabb from (Johns Hopkins); Jean Dryden (representing ICA); Bill Maher (representing SAA); Jamie Love (Knowledge Ecology International); Marina Pantaloni (ICOM); Teresa Hackett (EIFL); Jonathan Band (LCA)
 - Drafting a position paper. High level principles.
 - November's SCCR is a turning point for the exceptions development. Four more topics need to be reviewed and discussed--these are less complex and urgent. The Chair would like to complete these topics in November. The question is "What is next?"
 - Pressure from global south for progress.
 - Will the chair, Martin Moscoso (term through 2017) attend after December?
 - In July, Sylvie Forbin was named the Deputy Director General for Copyright and Creative Industries Sector at WIPO.
 - SAA has had significant effect on keeping things alive at WIPO. There is a strong presence at WIPO, as more organizations have started to come to the meetings.
 - Action items: to support Bill at the next SCCR, provide examples of preservation projects, cross-border activities, contracts (should not be able to override exception), limitations on liability (only effective way to get anything out of orphan works), exception to provide for tech protection measures/circumvention (most notably preservation), and translations.

- If SAA weren't there, it could be possible that what could be passed would have a collection licensing system, like the one in Finland.
- Section 108 revisions and Washington trip (Peter and Jasmine)
 - Copyright Office effort led by Karen Temple Claggett moving forward.
 - We made the case to the Copyright Office that there is no evidence of need to change 108. There hasn't been any litigation on it, except for a misreading of 108 by the Authors Guild in the Hathi Trust case.
 - Other organizations are echoing our position, though we haven't seen anyone else talk about the virtual reading room solution or the incorporation of 1201. The most impact we have had is on the license issue -- it is problematic for both libraries and archives.
 - Legislation will be introduced in the fall but it will likely have to be reintroduced next year. We are concerned about what will happen to the LOC's version of the bill when it is in committee, especially with regard to the fair use savings clause. We should time our next lobbying trip to DC based on when they reintroduce it next year.
 - Not clear the new Librarian of Congress will have an impact on this.
 - It is important to meet with other organizations on these lobbying trips, like we did with ALA and ARL, so that we can be aligned in message and learning about shared or affiliated goals.
- Copyright Advisory Network at ALA has been restarted.
 - Are there ways for SAA to liaise with different groups and committees, like the ALA Office for Information Technology Policy? We would benefit from having a dialogue with them at opportune times.
- Guidance for archivists using rights statements
 - State of the draft
 - Add a disclaimer about the implications of the high-level nature of these rights statements and that high-level rights statements do not preclude local rights statements. Maybe as a footnote to the paragraph under "What are rights statements?" This should include that, by having high-level rights statements, users might ignore local rights statements.
 - Do we want to encourage repositories to include in their local rights statements the reasoning behind the selection of the high-level rights statement?
 - One issue is that statements cover an item and not an aggregate. One could apply "copyright undetermined," but that has implications for the archives as being viewed as not doing their due diligence.
 - Action items
 - Heather will look at the revision and beef up the introduction.
 - Jasmine will update the flowchart so that the CC PD mark as an option to published pre-1850, rather than pre-1800.
 - Share with Greg Cram, Melissa Levine, and Emily Gore prior to publication.

- Reach out to Standards Committee to let them know to anticipate this document in a couple of months.
- TPP forecasting
 - Obama is making noise to get TPP passed before the election, but will likely not be successful. Maybe could be reintroduced under the next administration.
 - Communicating to the membership about TPP too soon will have it fall off of everyone's radar
- Lobbying trips
 - We have money for two more domestic lobbying trips this fiscal year. Decided that we will use those for trips in the winter (February) and spring.
 - Winter trip should be used to define who we are, what we do, and how what archivists do affects the constituents of those we are lobbying to.
 - What is our tactic for these trips, and how would we institutionalize this? What is our message?
 - Action items
 - Take a look at ALA and other professional organizations' lobbying documentation.
 - Come up with a legislative agenda: what are the things that we need to prioritize, and what do we want?
 - Term of copyright is number 1 priority; TPP wait and see.
- Session ideas for SAA 2017 in Portland
 - Due for a copyright/legislation update
 - Session on collective licensing, software licenses, etc. that might impact our collecting
 - Other topics that might go with it: legal issues in collecting digital materials, third party licenses, DMCA and deeds of gifts. It will be a couple of years since the UK implemented the no contract override provision.
 - Try to get Carl Malamud to talk or nominate him for an award
- Action items
 - Follow up with COPP on issue brief on the public domain. Tanya Zanish-Belcher is the outgoing chair.
 - Mark Matienzo was appointed by SAA to conduct an environmental scan about SAA's participation in international Standards groups. Aprille will reach out to Mark.