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TO: All Registrants for SAA Copyright Workshop at the Campbell Center

FROM: William J. Maher

SUBJECT: Welcome to Workshop and Comments on Readings

DATE: August 13, 2012

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 included materials that provide background on 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."

Note: It is absolutely essential that you read through the entire *Copyright: the Archivist and the Law Handbook* that I have written. This is a text edited from more than 70 pages of lecture notes that I have used for the first 11 years of this workshop. My hope is that this new edited version can provide you with a very solid grounding for the workshop so that we will not need so much time lecturing and that we can get into case studies and group exercises earlier in the workshop. I will look forward to your evaluations to see how this approach works.

Beyond the *Handbook*, there are other items I hope you will have time to read. Please review the following comments on them so you can best plan your time:

The <u>ALA (Digital Rights Management)</u> item is 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.

It is absolutely <u>essential</u> to look carefully at my *Copyright Chronology*. This is intended to explain the conceptual framework of copyright as well provide a quick view of the sequence of U.S. court cases that have a fundamental effect on what we as archivists and curators can do. 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 ARL *Code of Best Practices* and OCLC's *Well-Intentioned Practices* will be important for the risk assessment exercises we will do on the second day so please read those before the workshop.

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 <u>not</u> 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 <u>no more</u> than surf around to get an idea of the general categories of information made available.

In addition, if you want to have a good, article providing the general social and economic context for the last two decades of public attention to copyright, I recommend taking the time to read Charles Mann's "Who Will Own Your Next Good Idea." *Atlantic Monthly* (September, 1998): 57-82, available at http://www.theatlantic.com/past/issues/98sep/copy.htm Despite the publication date, this is still the very best overview article for the context of the broader commercial, cultural, and legal world in which archival copyright concerns reside.

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 at the Campbell Center.

SAA Workshop
Copyright: The Archivist and the Law
READINGS, 14-15 September 2012

American Library Association. *Digital Rights Management (DRM) and Libraries*,
http://www.ala.org/ala/issuesadvocacy/copyright/digitalrights/index.cfm

***   Association of Research Libraries. *Code of Best Practices in Fair Use for Academic and Research Libraries*, Pages 1-4, 19-21, available at:
http://www.arl.org/pp/ppcopyright/codefairuse/code/index.shtml

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 B., Emily Hudson, and Andrew T. Kenyon, "Risk Management: How to Digitize Safely" Chapter 10 in *Copyright and Cultural Institutions: Guidelines for U.S. Libraries, Archives, and Museums*, (Ithaca, New York: Cornell University Library, 2009), pages 193-213. Available at:
http://ecommons.library.cornell.edu/bitstream/1813/14142/2/Hirtle-Copyright_final_RGB_lowres-cover1.pdf

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

***   OCLC Research. *Well-intentioned practice for putting digitized collections of unpublished materials online.* Available at:
www.oclc.org/research/activities/rights/practice.pdf
Also read: SAA's preface to its endorsement of *Well-Intentioned Practices*:
http://www2.archivists.org/groups/intellectual-property-working-group/well-intentioned-practice-for-putting-digitized-collections-of-unpublished-materials-

Society of American Archivists. "Basic Principles for Managing Intellectual Property in the Digital Environment: An Archival Perspective." *Archival Outlook* November/December, 1997.
http://www.archivists.org/statements/managing-intproperty.asp

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.*
http://www.copyright.gov/title17/ [Selected pages only.]

SAA COPYRIGHT WORKSHOP
Campbell Center, Mt. Carroll, Illinois
Friday-Saturday 14-15 September 2012
*Friday 14 September 2012 (**9:00-5:00**)*

1.1		Introduction: survey of audience, global context in info age, and caveats
1.2		Review of Bibliography and Structure of Workshop
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.
1.5		History of copyright-4th century B.C.E. to Salinger (1987) and Eldred (2003)
2	**10:00-10:15**	Break
2.1		Basics of U.S. Copyright for Archivists
	12:00-1:15	Lunch
		Individual Work–Copyright Quiz (Questions 1-6
3	**1:15-2:15**	Case Study Exercise 1 (Basics) [widow controlling access]
4	**2:15-2:30**	Break
4.1	**2:30-3:30**	Case Study Exercise 2 (Basics) [Maxim I. Z. Prophets]
5	**3:30-3:45**	Break
5.1	**3:45-4:15**	Case Study Exercise 3 (Basics of Fair Use) [Carlos Crump]
5.2	**4:15-4:45**	General Discussion of Fair Use
6	**4:45-5:00**	Stock-taking–class identifies issues needing further attention for Day 2. Instructor identifies materials for class to read overnight. Division into teams for Case Study Exercises 3-6 work overnight

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*Saturday 15 September 2010 (**8:30-4:30**)*

7	**8:30-9:00**	Convene in working groups to discuss case studies.
8	**9:00-10:30**	Reports and analysis of Case Studies 4-6 (Advanced-Risk Management)
9	**10:30-10:45**	Break
9.1		Archival policies to implement: deeds, userforms, copy notices, licensing
9.2		"Things that Go Bump in the Night" (Congress, Hague Convention, ACTA, SOPA, TPP, etc.)
	12:00- 1:00	Lunch
		Small Group Work–Copyright Quiz (Questions 7-12)
10	**1:00-2:30**	Questions and answers regarding specific copyright problems faced by attendees.
11	**2:30-2:45**	Break
11.1	**2:45-3:45**	Copyright Quiz Answers and Remaining Individual Case Questions
11.2	**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.