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TO: All Registrants for SAA Copyright University Park, PA Workshop
FROM: William J. Maher
SUBJECT: Welcome to Workshop and Comments on Readings
DATE: April 12, 2007

I have asked the SAA staff to include this memo with their mailing of the Readings List and copies of the readings so that I could give you a little context for the readings.

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, although not yet in legislation.

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 impinge on many others than just the "pirates." A particularly good overview article is Charles Mann's "Who Will Own Your Next Good Idea." *Atlantic Monthly* (September, 1998): 57-82, although might seem dated at first reading. Some of the better articles are from publications that have quite hefty permissions fees, and in the interests of keeping your reading manageable and workshop costs modest, I have narrowed the list of readings to those items you see on the enclosed list.

As you plan your reading, you might want to consider the following comments about the readings.

The ALA (Digital Rights Management), Boiler (Public Domain Matters), Boucher (Fair Use Rights) are fairly strong on advocacy for a less restrictive copyright environment. As they make their case, they explain the intellectual context in which copyright generally fits for archivists, as we are participants in a "republic of letters."

Bollier's *Why the Public Domain Matters* is a very interesting essay, but please do not feel obligated to read all of it. Just skim it lightly to get a sense for the arguments on behalf of maintaining the idea of a public domain.

Boynton's piece from the *New York Times Magazine* is a good overview of the economic and social issues being contested around intellectual property law. Read or skim it to prepare yourself to understand the broader framework that is influencing what archivists can and cannot do.

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

Hirtle's account of "recent" (1998) changes while slightly dated is useful because it is written specifically for archivists, and his piece on unpublished works articulates problems that I believe most of you confront on a regular basis.

My piece on the Supreme Court ruling in 2003 is hardly news any more. I would strongly encourage you to look carefully at the *Copyright Chronology*. Some registrants at prior workshops have seen this only as my inveterate interest in history, especially European history. However, 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 Zaret article is good, covering some of the same territory as Boynton, and if you were pressed for time, you could read Zaret carefully and skip Boynton until later. However, I am not sure you will be able to find it on-line at the present time.

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 of the Workshop, please contact me at w-maher@uiuc.edu.

I look forward to seeing you in Pennsylvania.

SAA Workshop
Copyright: The Archivist and the Law
READINGS, 10-11 May 2007

American Library Association. *Digital Rights Management and Libraries*,
<http://www.ala.org/ala/washoff/WOissues/copyrightb/digitalrights/digitalrightsmanagement.htm>

Bollier, David. *Why the Public Domain Matters The Endangered Wellspring of Creativity, Commerce and Democracy*, (Washington: New America Foundation, 2002)
http://www.publicknowledge.org/pdf/why_the_public_domain_matters.pdf

Boucher, Rick. Congressman Boucher's New American Foundation Speech On Fair Use Rights
May 10, 2002

Boynton, Robert S. Boynton, "The Tyranny of Copyright?" *New York Times Magazine*, January 25, 2004. **(Use the following URL**—be careful to type the full URL down to the end of the word "USERLAND" Then you may need to go to the bottom of the screen to find the option for selecting page 1 of the article
<http://www.nytimes.com/2004/01/25/magazine/25COPYRIGHT.html?pagewanted=1%20&ei=5007&en=9eb265b1f26e8b14&ex=1390366800&partner=USERLAND>

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. "Recent Changes to the Copyright Law." *Archival Outlook*. (January-February 1999). 4 page insert.

_____. "Unpublished Materials, New Technologies, and Copyright: Facilitating Scholarly Use," *Journal of the Copyright Society of the USA* 49 (Fall 2001): 259-75.

Maher, William, *Copyright Chronology*, 2005.

_____. "Supreme Court Issues Ruling in Key Copyright Case," *Archival Outlook*, March/April, 2003, 6-7.

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.dcb.org/for_lawyers/washington_lawyer/february_2003/access.cfm
Please note, when I tried to access this article recently, I received error messages which could mean that Washington Lawyer no longer wants to make it available, or it could just be a temporary glitch, so try on your own to see if you can obtain access.

United States Copyright Office. (2003). *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.]