

SAA Representative to WIPO
Statement on Copyright Issues Involved in Technological Protection Measures
Standing Committee on Copyright and Related Rights

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Thank you to the Delegates for the opportunity to explain one more instance of issues in which copyright presents challenges for archivists who want to abide by legal norms but who also have to fulfill their mission. The problem of technological protection measures arises almost on a daily basis.

One of the core elements in documenting the history of that institution, such as a university, as well as of the history of the disciplines represented by the faculty members is acquiring what we call “faculty papers.” Over the years “papers” have included paper. They have included computer disks. They have included audiovisual tapes and so forth. But increasingly when we get a call to acquire faculty papers now it is a matter of picking up a laptop or accessing a remote fileserver disk drive and copying off every portion which had belonged to that person who is now retired or deceased. Initially, this is a matter of just a simple a bit-by-bit copy but which by itself is not readable or intelligible. Then once we can locate the software to read the file, the content may be behind passwords, may be behind technical protection measures. Thus, there needs to be the ability to go through these barriers even before we can assess whether the information is of enduring value. Certainly when the content is of enduring value we need to be able to get beyond those technical protection measures to preserve it.

So this is an instance where the archival mission of capturing the documentation and even assessing what's worth capturing requires us to do something which strictly speaking copyright does not allow us to do. Thus, what we are looking for is an exception and limitation that addresses these issues. As Knowledge Ecology International pointed out, the model of the TPM provisions in the Marrakech Treaty represents a very good conceptual basis. Thank you very much.