



**SOCIETY OF  
American  
Archivists**

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**Statement of SAA Representative to WIPO  
Standing Committee on Copyright and Related Rights  
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June 2014

On behalf of North America's largest professional archives association, congratulations on your election as chair. Being collectively responsible for billions of copyrighted works, we thank you for this opportunity to address SCCR.

At past meetings, we have heard much from Group B and certain other delegations that work on limitations and exceptions should be confined to sharing national experiences, not text-based work. With all due respect, this is nothing more than talk for the sake of talk. It risks keeping SCCR from fulfilling the spirit of WIPO's development agenda.

Rather than replaying the chaos that ended its last meeting, SCCR should focus on the importance the General Assembly and SCCR's prior reports have given to the Development Agenda. Its Goal 19 notes the developing world's need for access to knowledge. That requires more than just creation of new exclusive rights. It requires careful attention to the crucial international issues of cross-border and online access.

One example shows why—the personal archives of a dissident radio journalist from a lesser developed country lacking any archives or library exceptions. For over four decades, he was a primary source of news and cultural programs for that country. The audiotapes in his archives, now held at an American university, are unstable and will disintegrate soon if they are not copied to a digital medium. US law allows this copying, and the journalist's family supports the work. Unfortunately, without an international instrument to support the needed cross-border access, this material cannot be made available to the people of the country where it matters most.

Ironically, in its infancy the US realized the futility of such isolated local approaches for solving cross-border problems. When the American colonies won their independence in 1783, they were not a coherent nation, but thirteen sovereign states. Our country's founders recognized the need to expand knowledge and culture, but they offered only a model copyright law, and it was not adopted uniformly. It was such a failure that the Constitution of 1789, the one we have now, gave Congress, not separate states, the power to create copyrights in order to provide cross-border clarity for our developing nation.

The dysfunctionality of that insistence on sovereignty and distinctive approaches now haunts today's developing nations. Shouldn't they have access to the same consistency that the young United States sought? In the digital world, that means consistent, text-based, cross-border exceptions for archives and libraries as trusted providers of information. When everything from recipes to art masterpieces are now legally available online, what is the likelihood the public will obey a copyright regime that cannot offer reasonable access to archives and libraries collections? Now is your chance to ensure copyright's future by respecting users as much as creators. By recognizing the essential worldwide mission of archives and libraries for education and culture, and by removing unworkable copyright barriers, you can demonstrate that copyright has the vitality to cope with today's increasingly complex information environment. The world will move on. Can you risk being left behind?



The Society of American Archivists (SAA) is the oldest and largest association of professional archivists in North America. Representing more than 6,000 individual and institutional members, SAA is the authoritative voice in the United States on issues that affect the identification, preservation, and use of historical records. SAA serves the education and information needs of its members and provides leadership to help ensure the identification, preservation, and use of the nation's historical record.

Since the 1960s, SAA has spoken in regard to archives and intellectual property and has issued more than 20 policy statements on copyright since the mid-1990s. SAA believes that archivists must take an active role in promoting the importance of archives and archivists in order to increase public support, shape public policy, and obtain the resources necessary to protect the accessibility of archival records that serve cultural functions as well as ensure the protection of citizens' rights, the accountability of organizations and governments, and the accessibility of historical records. Further, archivists promote and provide the widest possible accessibility of materials, consistent with any mandatory access restrictions. Although access may be limited in some instances, archivists seek to promote open access and use when possible.

Archivists are the custodians of writings and other materials that have been created by their own organizations and by third-party authors. Archivists try to provide access to these materials within the bounds of law, donor concerns, and public policy. Yet, copyright law is perhaps the most important challenge that archivists face in providing wider access to our collections, especially digitally. It is also a challenge for the students and scholars wishing to use our collections in their research and study.

SAA created the Intellectual Property Working Group in May 2001. The Working Group responds to requests for assistance from the SAA Governing Council, tracks intellectual property issues of concern to archivists, and drafts responses or position papers for the Council as needed.

**William Maher** was SAA President (1997-98) and Treasurer (1991-94). He is University Archivist and Professor of Library Administration (1995-) at the University of Illinois at Urbana-Champaign (UIUC). Previously, was Assistant University Archivist at UIUC (1977-85 & 1985-95) and Program Officer at the U.S. National Endowment for the Humanities (1985-86). He also served as President (1987-89) and Secretary-Treasurer (1981-85) of the Midwest Archives Conference. He is Chair/Président of the International Council on Archives' Section on the Archives of Universities and Research Institutions (ICA/SUV). As the author of one book and more than 25 articles, he is a regular speaker on university archival administration, archives and history, and copyright law. He has taught more than 500 students in SAA's workshop on Copyright for Archivists since 2000.

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