



**SOCIETY OF
American
Archivists**

Statement of Society of American Archivists' Representative

WIPO Standing Committee on Copyright and Related Rights SCCR 34

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The Society of American Archivists, North America's largest professional archival organization, congratulates you and your vice chairs on your elections. Our members manage billions of primary source works from across the globe. So we look forward to working with you. SAA keeps returning to WIPO because copyright is central to the mission of archivists. Our daily work depends on collaborating with authors, so we have great respect for authors' rights.

We collect and preserve all kinds of creative works for one reason only—use. Most archival works have never been in commerce, but people globally need them to maintain their cultural identity, protect human rights, and support innovation through new creative works. If such works cannot be made available digitally and across borders, they might as well not exist.

Archivists and librarians are conscientious about copyright, but strict adherence to the law often conflicts with our collections and our mission. For example the 1970s collection of 120 interviews of legendary jazz musicians are available for onsite study in the archives of a US research library, but their general usefulness was hobbled by unbalanced copyright law because the original copyright assignment mentioned neither derivative works nor the yet-to-be-invented internet. As a result, risk-averse librarians and lawyers were unwilling to allow the digital accessibility of the interviews. Although jazz cannot thrive without taking risks, an archivist's obligation to the future requires that we minimize risk. That is why we need reasonable exceptions to deal with the tremendous ambiguity inherent in our collections.

Enforcement of exclusive rights operates across borders. So should access to knowledge. Society needs ready access to the historical documents that archivists curate so that people anywhere in the world can learn from the past, secure their rights, and preserve their diverse cultures. That is why archivists need coordinated copyright exceptions to bring back balance and eliminate the conflicting national practices that technology has rendered obsolete.

Unfortunately, WIPO's continued inaction leaves archivists with only two choices. Either we must exhaust our budgets in endless and fruitless searches for virtually unfindable rights holders, or we must decide not to preserve or make works available. Why? Because of fear of possible infringement. The first choice would destroy archives. The second would harm society and undermine the credibility of copyright. Is that what WIPO wants?

Copyright is already perceived to be under attack. Can WIPO afford to turn away allies such as archivists? We have quite positive approval ratings from the very public you need to reach. To keep archivists on board, the development of exceptions for archives must remain on SCCR's agenda. To this end, the committee's work should continue based on the previous chair's chart, and the chart should become a working document of the Committee.



The Society of American Archivists (SAA) is the oldest and largest association of professional archivists in North America. Representing more than 6,200 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 (1995-present) at the University of Illinois at Urbana-Champaign, and previously was Assistant University Archivist at UIUC (1977-95) and Program Officer at the U.S. National Endowment for the Humanities (1985-86). He is Chair of the International Council on Archives' Section on the Archives of Universities and Research Institutions. He is the author of one book and many articles and has taught hundreds of students in SAA's workshop on "Copyright for Archivists" since 2000.

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