TO: All Registrants for SAA Copyright Workshop

FROM: William J. Maher

SUBJECT: Welcome to Workshop and Comments on Readings

DATE: August 4, 2015 (URLs updated August 1, 2015)

This “mailing” includes introductory comments, the list of readings for the workshop, and the outline/agenda/schedule for the workshop. You can also access this memo at: http://archives.library.illinois.edu/workpap/SAA-Workshop-Readings2015-09.pdf

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 seem to have an immediate archival relevance, but they do reflect current issues that affect how much freedom archivists 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 essential that you review the Copyright: the Archivist and the Law Handbook that I have written. (It can be found at: http://archives.library.illinois.edu/workpap/WorkshopHandbook4-5.pdf This is a text edited from lecture notes that I have used for the first 12 years of this workshop. While the Handbook is a bit long and detailed, the more of it that you can read in advance of the workshop, the more we will be able to focus on case studies and deal with your individual questions. Because some sections of the Handbook contain detailed discussion of court cases as well as summaries of legal literature, you may find these a bit dense. However, other than recommending you do NOT read the discussion on Section 203 (page 25) and do NOT read the footnotes to Peter Hirtle’s chart (pages 36-38), the best way to get through this is to focus on the narrative explaining the sections of the copyright law. Specifics of the cases and the legal literature, and many of the footnotes are there only if you are curious.

Beyond the Handbook, there are other items I hope you will have time to read (for some of the longer works, such as the ARL Code of Best Practices and the Hirtle, Hudson, and Kenyon book, you can limit your reading to the pages specified on the Readings List. Please review the following comments on them so you can best plan your time:

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 essential 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 “Fair Use.”
The eight pages selected from the ARL Code of Best Practices and the one-page OCLC 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 it not be sent to you in advance of the workshop. 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 Publications | 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.

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 best overview article for the context of the broader commercial, cultural, and legal world in which archival copyright concerns reside.

Please note that a bibliography of items for further reading will be provided in the workshop binder and discussed during the workshop.

Meanwhile, if you have any questions about the readings or if there is anything else I should do to help you get the most out of the Workshop, please email me w-maher@illinois.edu.

I look forward to seeing you in Mt. Carroll.

http://www.educause.edu/ero/article/praise-sharing

http://ecommons.library.cornell.edu/bitstream/1813/14142/2/Hirtle-Copyright_final_RGB_lowres-cover1.pdf

Maher, William, *Copyright Chronology*, 2014 see:  
http://archives.library.illinois.edu/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-

http://www.archivists.org/statements/managing-intproperty.asp

DO NOT ATTEMPT TO READ OR SKIM THE FOLLOWING UNTIL AFTER THE WORKSHOP:

http://www.copyright.gov/title17/ [Selected pages only.]
1.1 Introduction: survey of audience, global context in info age, and caveats. Division into working groups for Case Study Exercises
1.2 Review of Bibliography and Structure of Workshop
1.3 Group Exercise I: What is copyright? Why copyright? Whose rights are these?
1.4 Basics of U.S. Copyright for Archivists (Items 1-5)
1.5 10:00-10:20 Break
1.6 Basics of U.S. Copyright for Archivists (Items 6-10)
1.7 History of copyright-4th century B.C.E. to Salinger (1987) and Authors Guild (2014)

2 12:00-1:15 Lunch and group work on Case Studies 1 & 2
2.1 [1:15-1:30] Report on Case Study 1 (Basics) [Authorization to Use . . . ]
2.2 [1:30-1:45] Group Work on Case Study Exercise 2 (Basics)[widow controlling access]
2.3 [1:45-2:15] Report on Case Study 2
2.4 2:15-3:00 Review of Fair Use provisions and Fair Use Factors
3 3:00-3:30 Working Break–Group Work on Case Study 3
3.1 3:30-4:15 Case Study Exercise 3 (Basics of Fair Use) [Carlos Crump]
3.2 4:15-4:45 Title 17 Chapters 4 and 5 (Safe harbors?)
4 4:45-5:00 Review of Risk Factors and Risk Level Assessment for Case Study 4

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 in specific cases.