



**SOCIETY OF
American
Archivists**

**Statement of SAA Representative to WIPO
Standing Committee on Copyright and Related Rights
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Thank you, Mr. Chairman, for the opportunity to speak on behalf of the Society of American Archivists, North America's oldest and largest professional archival association. Our more than 6,000 members in 41 countries provide leadership to ensure the selection, preservation, and use of records of historical value. By a conservative estimate, our members' repositories are responsible for nearly a billion copyrighted works. My archives alone holds the works of more than 13 million separate writers and rights holders.

Copyright has a history. This 18th century invention was created to provide a financial return to authors and publishers, and reading material to the public, thereby settling many long-standing market disputes. While the 1886 Berne Convention changed the basis of copyright from publication to authorship, the intent was the same—to provide for the active and professional writer or artist who created works for public dissemination.

The problem for archivists is that the vast majority of our collections were never written for public dissemination. They were not created by professional writers or artists. These mostly unpublished letters, diaries, emails, photos, and the like were simply byproducts of their creators' lives. Sometimes even the creators' names are a total mystery. These works are square pegs being pushed into the round hole of copyright, but they are invaluable to society. One need only look at Ken Burns' popular documentary series on the American Civil War, in which unpublished letters defined the narrative, to see that archival holdings are not esoterica meant only for obscure studies. Rather, they contain the threads needed to weave an authentic picture of society. Whether for documentaries like Burns's or books like Fernand Braudel's monumental work on the Mediterranean world in the age of Philip II, the copying and use of archives are essential to knowledge, culture, and education.

Copyright has adapted to new technologies, recently expanding to include born-digital materials. Archival documents in these new media are as essential as old paper to providing citizens with the information needed to hold their governments accountable and maintain society's heritage. Without appropriate exemptions, however, we cannot make born-digital documents available for use.

Meanwhile, digital technology holds the promise of liberating our collections from their physical location. Theoretically, it is now possible for even remote schools, satellite university students, and the general public to make use of these primary sources. Yet, copyright prevents this, limiting research only to those wealthy enough to travel widely.

In short, strict adherence to current copyright rules makes it virtually impossible for the world's archives to fulfill their educational and cultural missions. We preside over works rarely created for public dissemination or economic profit. For most works, there is no market structure for working with rights-holders. Yet copyright requires us to follow the same rules as commercial enterprises, thus preventing us from serving researchers, especially via new technology—our users' medium of choice.

Without specific archives and library exemptions, we lack the means to pursue our research and educational missions. I therefore commend the Africa Group for proposing a Draft Treaty on Exceptions and Limitations for the Persons with Disabilities, Educational and Research Institutions, Libraries and Archives (SCCR 22/12). It would provide the robust set of exemptions needed to render copyright useful to the modern archival world, thus ensuring copyright's continued relevance and vitality.



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 over 20 policy statements on copyright since the mid-1990s. SAA's current strategic priorities include the following statement: "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 exploit 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 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 over 25 articles, he is a regular speaker on university archival administration, archives and history, and copyright law. He has taught over 500 students in the SAA's workshop on Copyright for Archivists since 2000.

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