



**SOCIETY OF
American
Archivists**

Statement of Society of American Archivists' Representative WIPO Standing Committee on Copyright and Related Rights SCCR 35

**William J. Maher (w-maher@illinois.edu)
15 November 2017**

The Society of American Archivists is North America's largest professional archival organization, and our members manage billions of primary source works from across the globe. We work closely with authors and respect their rights, but our mission is often challenged by the limits that copyright places on common archives tasks.

Archivists are not concerned with the past so much as with the future. For that we need WIPO's help. Our core business is providing the future with access to the knowledge found in the kind of everyday documents that do not make it into common circulation. We need to be able to use today's technology to preserve them and make them accessible to individuals around the world. As one historian of French culture told us "The most compelling historical research is cultural history that reflects the complexities of the global world. Doing that requires putting local and national sources in conversation with each other." For example, a Chinese graduate student at a Japanese university recently contacted a US university archives to obtain copies of rare and unique documents authored by labor-union organizers in post-World War II Sweden. Existing national laws may define these mundane documents as works covered by copyright. However, they were never created for the commercial distribution system that so concerns industrial advocates to the point that they stubbornly block efforts to ensure balance in international copyright.

Right now archives, libraries, and museums struggle against sweeping and nearly perpetual claims of exclusive rights that often have little to do with our realities. That leaves us no choice but to act. Archives exist to be used. Our public mission requires that we make copies for our users. Ignoring the law, however, is not the answer. We do not want to be in the position in which WIPO's failure to act leaves our daily work as an advertisement that copyright is irrelevant, that it is a one-sided, dysfunctional artifact of a bygone era.

The draft "Action Plans" have called for "scoping studies," "developing typologies," and holding "conferences," but we fear they may only result in more inaction. No amount of studies or hand-picked experts can change the reality that WIPO is living in a bubble. SCCR can move past that point. The Member States already know the issues, and they should lead the action plans. The former SCCR Chair's chart (SCCR/34/5) has already scoped out the issues for all to see. We have outlined the necessary provisions needed to support the missions of archives, libraries, and museums. Now it is time to stop the foot-dragging and begin textual work on an international instrument to ensure the future vitality of copyright. At this time of growing isolationist and nativist movements around the world, SCCR must step up to its role as an international leader and create a truly global approach that transcends national boundaries and barriers to culture and knowledge.



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.

Tanya Zanish-Belcher, President 2017-2018
president@archivists.org

Nancy P. Beaumont, Executive Director
nbeaumont@archivists.org