Symposium: Digital Archives: Navigating the Legal Shoals

Welcome and Introductory Remarks

June M. Besek*

We had a little fun with our title, Digital Archives: Navigating the Legal Shoals. We were trying to think of how to advertise the symposium, and I had ideas of sea monsters and Scylla and Charybdis. We also found a few pictures of shipwrecked vessels. But then we thought, “Maybe we’re sending the wrong message.” We hope that by the end of the day we’ll have provided some light and guidance, so we decided that a lighthouse might be a better theme.

Digital archives and libraries have long been an interest of the Kernochan Center and that’s why we wanted them to be the focus of our annual symposium this year. We hope to speak about them on a couple of levels, both the theoretical and the practical, and provide some guidance, but also think about the bigger picture.

We are going to consider the possible legal hurdles that archives face in digitizing existing works and in collecting “born digital” materials and making them available over the Internet. Archives have incredible holdings, and I know that almost everybody is interested in trying to make them more available than they currently are. But there are legal hurdles to doing that. They’re not necessarily complete obstacles, but there are issues we have to think about in making archives

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more broadly available, and those are the issues we’re going to be discussing today.

We planned this symposium with the help of the Rockefeller Archive Center, and we are extremely grateful for their help, and, in particular, for the day that we spent with them talking over some of the issues that they confront. That meeting gave us a lot of ideas for planning the symposium and helped us shape some of the presentations and the roundtable panels that are on the program today.

So, I want to ask Jack Meyers of the Rockefeller Archive Center to say a few words. He’s going to give an “archival” welcome as opposed to my “legal” welcome this morning.

Jack Meyers**

On behalf of the Rockefeller Archive Center, I’d like to welcome you to this one-day symposium focused on the continuing problem of navigating the legal shoals of digital archives.

A few days ago, one of the scholars using our archives mentioned that at the end of the afternoon, when she left the reading room after a full day of research, she found that she had entered so deeply into the lives of the people whose letters, memos and diaries she was reading that she found that she couldn’t get them out of her head and that they had become quite vivid to her, like characters in a novel about whom she was always curious to learn more.

Most of us who have worked in archives have probably had this experience. The problem is that these archival characters, unlike their fictional counterparts, come with all kinds of real-world issues. If they’ve died within the last several decades, there’s the issue of their own intellectual property rights, and, of course, the intellectual property rights of the many people who corresponded with them. Or the problems generated by the wonderful oral history they did many years ago, for which no paperwork exists. Or the terrific photographs of their country estate by a late, famous photographer who, it turns out, has an enormously complicated estate of his own. Or the films they made after working through complex contracts with others involved in the productions.

The list of issues—for the kinds of accomplished, intriguing characters who live in our archives—is a long one, now made all the longer by the digital world in which we live. And as we all make the first steps toward that unachievable, perfect world in which everything in our archives will be available online, we in archives find that we have suddenly, to our surprise, become publishers—but without any of the training or experience necessary to do this new job well. As electronic publishers, we now need regularly to consult with programmers, graphic designers, web optimizers and, of course, lawyers as we try to understand how to make our

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** Jack Meyers is the president of the Rockefeller Archive Center, an independent operating foundation that preserves and makes available for research the archival collections of members of the Rockefeller family, institutions and organizations founded by Rockefeller family members. The Archive Center also sponsors research grants for scholars who wish to use the collections, as well as workshops, seminars and conferences related to the major subject areas of the collections. The Center's programs have a special focus on philanthropy and philanthropic foundations.
collections available to an audience that can now reach us from any point in the world—a world in which, our lawyers remind us, intellectual property laws are not congruent.

I should also mention that archives are doing all this with relatively modest financial resources to call on. In almost every institution, the archives are near the bottom of the financial priorities list. This is at a time when—to be successful in the new electronic world, with its demanding software, hardware and technical expertise expenses—archives have a kind of financial need that they have never had before.

But the fact is that most of us are enormously excited by the new world that the digital environment is opening up, and all of us are hungry for information and guidance as we try to find our way. Our hope is that today’s symposium will be a part of that process—by allowing archivists, legal professionals and others who are close to these issues to take the time to exchange questions and ideas. We at the Rockefeller Archive Center are very pleased to have been able to collaborate with June Besek, Jane Ginsburg and their colleagues at Columbia on this very timely symposium—and I want to send our special appreciation to June and Jane for all of the time and energy that they have put into the organization of today’s events. We’re really looking forward to the discussions ahead, and I hope you are too. Thanks so much.