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Biz of Acq - Things to Consider When Planning Section Programming

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any problem with playing the video on the local Government Channel?

ANSWER: Many people would respond that this should be fair use and it should be! Unfortunately, it likely is not. If the librarian simply played the video for classes in a non-profit educational institution as part of instruction, there would be little problem. To perform the video even on cable television, the library needs a license in order to use the **Jacksons** recording. In fact, the library needs both a performance license and a synchronization license (for synchronizing the video with the music). Both the underlying musical composition and the sound recording are still under copyright.

QUESTION: *An audio engineer maintains a Website that many engineers worldwide use as a reference concerning audio issues. The now defunct audio trade publication Record Engineer & Producer was a treasure trove of information about analog recording. People often ask about finding back issues which would be useful to help educate today's digital*

savvy but analog ignorant audio engineers. Someone has now offered 22 years of back issues to the Website owner. May the Website owner scan some of the various articles from this magazine for the Website? Or could he make articles available to folks who request them on an individual basis? The magazine ceased publication in the early 1990s.

ANSWER: The first determination deals with the publication dates of the magazine. Issues published before 1964 are very likely in the public domain. If they are in the public domain, then digitizing those articles for the Website would be no problem. Before 1964, publishers had to register the issues and then received 28 years of copyright protection. At the end of that 28 year period, the copyright could have been renewed for an additional 28 years. But many publishers of small magazines did not renew their copyrights which meant that the issues for that year passed into the public domain. Thus, determining whether the issues were registered initially and then whether they were renewed for copyright is necessary to make the determination about whether pre-1964 works are still under copyright.

Issues published between 1964 and 1977 still had to be registered for copyright. But

Congress automatically gave them an additional 95 years of copyright protection through a series of amendments to the **Copyright Act** and no renewal of copyright was required. So, the answer to the question about digitizing articles from the journals is dependent on the copyright status of those issues.

Even if the issues of the defunct magazine are still under copyright, there might not be anyone around to complain about any infringing activity. The Website owner may just decide to take a chance and make them available online, but it would be infringement. If there is no one around to enforce the rights, however, the potential benefit in making the articles available may lead the Website owner to take that chance. If the Website owner takes this view, it might be useful to include a disclaimer on the Website that asks the copyright owner to come forward and volunteers to remove the item from the Web if the owner objects.

It probably would be fair use to provide single copies of articles to individuals who request them occasionally, but even libraries that do this have a number of restrictions including that the reproduction and distribution may not be systematic. 🐾

Biz of Acq — Things to Consider When Planning Section Programming

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It is more than likely that an acquisitions librarian will have the opportunity to plan a program for a section of a national library association during the course of their career, but few have experience or background in doing this. It is important to plan ahead and pinpoint how to successfully plan an event where all participating parties will learn and grow from the experience, including the planner(s).

The first thing to consider when planning an event is what subjects will be covered and what the process will be to select them. If this was a section program for a national library association, topics could be gathered from members of that section at the annual section business meeting or via solicitation of that section's listserv. The members will most likely suggest "hot topics" dealing with current best practices or trend setting innovations that will make acquisitions or collection management faster and more efficient. The selection of topics could also be chosen using a committee and the voting process as well, depending on the section and the organization. Here again popular topics will be suggested and the topic with the most votes will be the basis for the program. If there are several topics, then the committee might send out a survey to narrow

down which topic will be selected for the final program. There are some library organizations that hold training sessions to assist with the selection process and to possibly partner with other sections who might have selected the same topic or a very similar one. Once the selection process is completed, the next part of the planning process is selecting how the program will be organized.

There are several ways that a program can be set up. A program can have presented papers, invited guest speakers, a panel discussion, or any combination of the three. Members of an organization look for opportunities to share their life's work or research with others. Therefore, they write papers and submit abstracts so that they can come and share what they have learned with their peers. So, when a library association sends out calls for proposals for their annual meeting, members are more than happy to submit their abstracts and wait on an acknowledgement from the section or organization that their paper has been accepted. The program planner can select reviewers to assist with the selection of submitted papers for the program. Reviewers can be solicited via email or anyone that is co-sponsoring or working with the committee can also review the papers.

Once papers are selected, the planners notify the authors and give them specifics about the program and what the expectations are. Some organizations offer travel grants to offset the costs of attending a conference. Other organizations offer a reduction in fees for presenters to attend their conference. This is something that should be expressed to presenters so that they know what options might exist for them when planning their travel budget proposals for their library. This is especially helpful during tight budget years when the economy has taken a turn for the worse. Guest speakers are another good vehicle for program planning.

Guest speakers are very good at giving expert training or advice to audiences and can provide a unique perspective on a hot topic or new job trend. They are usually very good with questions and answers, and can provide a wealth of knowledge to their listeners. The program planner can usually find out about good potential speakers via word of mouth or by remembering a speech or talk someone gave at another organization's program or training session. Some organizations keep a list of potential speakers that can be quite helpful in choosing the right candidates to speak at a

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function. It is very important to note that some speakers want honoraria for their labors. This can be a monetary set fee or some prefer all of their travel expenses paid for by the group that is hosting them. Other speakers will accept a token of appreciation for their presentations. It is always a good rule of thumb to offer some token of appreciation even if the speaker does not require or ask about honoraria. Always plan well ahead for speakers who are very popular or well known in certain fields. Some presenters are booked a year in advance, depending on their subject area. Also, if the dates can be adjusted to accommodate the perfect speaker, then this should be done if possible. This will aid in getting the right speaker for a program and ease the planning process. Panel discussions are also a very good vehicle for program planning.

Panel discussions are usually formed by having several speakers present on a topic of interest or accept questions from the audience on a given topic or topics. The panelists can come from various backgrounds and have varying experience levels, depending on how the program guidelines are set up. When working with a panel, it is crucial that all panelists are on the same page about what is expected of them. If one panelist does something very different, like doing a power point presentation when the other panelists were told they

did not have to do one, then this could cause hard feelings and change the dynamic of the discussion. This is something that should be covered in great detail so that all of the panelists are clear about what is expected of them and how much time each will have to present their side of the topic. If more than one planner is overseeing the panel, make sure that they too are on the same page and deliver the same information to the panelists. It is also a good rule of thumb to have some questions ready to ask the panelists in case the audience does not have any or is reluctant to respond during the question and answer period of the program. Even though all three vehicles are good to use in planning a program alone, any of them can be used in combination to fit a program's theme or time schedule.

It is quite likely that the papers that are submitted to a program planner do not fit the theme of the conference or do not fit with what the purpose of the program might be. A panel discussion might have more flair if it followed a phenomenal guest speaker who got the audience engaged and ready to hear feedback on what was previously presented to them. What if the perfect program was derailed because the guest speaker is overbooked or has unexpected schedule changes? This can cause a planner to combine resources in an effort to salvage a program or make it even more useful to the audience. The whole purpose of planning and presenting a program is for the attendees to get the most useful information possible. Changing or combining the vehicles for that program

is the best way to effectively offer wisdom and knowledge for the attendees.

There is always the possibility that something might happen to thwart program planning. Even at best, the unexpected can take planners by surprise. A speaker can get sick or decide that they cannot attend a program and cancel. There are ways to remedy these stalemates, but it is always good to have a plan b. Check to see if someone else is available to step in and take over the speaking allotment. If a paper cannot be presented, then the other presenters can speak longer or there can be a longer question and answer period. Or, the membership can turn in questions that the presenters will have responses for at the program. This can aid in dealing with unexpected travesties. In dealing with AV and equipment, make sure that all of the rooms are in working order and that all the microphones work. It is a good rule of thumb to bring a laptop just in case someone has technical issues and cannot use their own. Also, be very aware about costs associated with Internet connections at hotels and business conference centers. It can break the bank! Also, **PowerPoint** slides can be made to alleviate the costs of the Internet. The planner(s) should go at least 20 minutes or more before the program to make sure that the speakers have what they need and have all their questions answered. Reassure the speakers that they will do a great job and that everything will go as planned. The speakers are relying on the planners to make sure that they have

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From the University Presses — Google 2.0: Still a Mixed Blessing?

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In the wake of a tidal wave of objections filed to the original **Google Settlement** in the last few months leading up to the “fairness hearing” that was planned for October 7, the parties to the agreement prevailed on **Judge Denny Chin** to allow them time to revise it and submit a new version by November 9. They missed that deadline but made an extended deadline, presenting **Google 2.0** to the court in literally the 11th hour of Friday the 13th.

Objections had come from many quarters, ranging from private citizens to companies like **Amazon.com** to foreign governments, but among the most compelling were those presented on behalf of the academic community, by the **U.S. Justice Department**, and by **Register of Copyrights Mary Beth Peters**.

UC-Berkeley law professor **Pamela Samuelson** was a leading voice among academics, writing of the “audacity” of the Settlement for her **Huffington Post** blog on August 10 and challenging it on both anti-trust and representational grounds (http://www.huffingtonpost.com/pamela-samuelson/the-audacity-of-the-googl_b_255490.html). Much of her argument was repeated at greater length in a very articulate and persuasive letter dated August 13 and signed jointly by 21 faculty leaders from the **University of California**, who “constitute the entire membership of the Academic Council, the executive body of the Academic Senate, and the chair of the Academic Senate’s Committee on Libraries and Scholarly Communication” (<http://bits.blogs.nytimes.com/2009/08/17/uc-professors-seek-changes-to-google-books-deal/>). They grouped their concerns under three main headings: “Risks of Price Gouging and Unduly Restrictive Terms”; “Support for Open Access Preferences”; and “Privacy and Academic Freedom Issues.” The letter makes a particularly compelling statement about how the Settlement takes no account of the interests that academic authors have that are different from those of members of the **Authors Guild**, which took upon itself the role of representing the entire class of authors. “Specifically, we

are concerned that the **Authors Guild** negotiators likely prioritized maximizing profits over maximizing public access to knowledge, while academic authors would have reversed those priorities. We note that the scholarly books written by academic authors constitute a much more substantial part of the Book Search corpus than the **Authors Guild** members’ books.” I think the same point could be made by university presses about how well the **Association of American Publishers** represented their interests in negotiating the Settlement. Our priorities, too, are different from those of **McGraw-Hill**, **Pearson**, et al.

The Justice Department, while recognizing the significant public benefit that the Settlement could bring from its “potential to breathe life into millions of works that are now effectively off limits to the public,” also took the Settlement to task for its inadequacy of class representation, but focused attention on the disadvantaged positions of foreign rightsholders and authors of out-of-print books (<http://searchengineland.com/departments-of-justice-files-objections-to-google-book-search-settlement-26144>). The Settlement’s provisions allowing **Google** to negotiate with the **Book Rights Registry (BRR)** for new derivative uses of out-of-print titles and paying unclaimed funds to rightsholders who had opted in to the Settlement prompted this objection in the Department’s brief: “There are serious reasons to doubt that class representatives who are fully protected from future uncertainties created by a settlement agreement and who will benefit in the future from the works of others can adequately represent the interests of those who are not fully protected, and whose rights may be compromised as a result.” The Department also raised two main questions about anti-trust implications of the Settlement: “First, through collective action, the Proposed Settlement Agreement appears to give book publishers the power to restrict price competition. Second, as a result of the Proposed Settlement, other digital distributors may be effectively precluded from competing with **Google** in the sale of digital library products and other derivative products to come.”

Finally, in a hearing before the House Judiciary Committee on September 10, **Mary Beth Peters** characterized the Settlement as “not really a settlement at all, in as much as settlements resolve acts that have happened in the past and were at issue in the underlying infringement suits. Instead, the so-called settlement would create mechanisms by which **Google** could continue to scan with impunity, well into the future, and ... create yet additional commercial products without the prior consent of rights holders. For example, the settlement allows **Google** to reproduce, display and distribute the books of copyright owners with-

out prior consent, provided **Google** and the plaintiffs deem the works to be ‘out-of-print’ through a definition negotiated by them for purposes of the settlement documents. Although **Google** is a commercial entity, ... the settlement absolves **Google** of the need to search for the rights holders or obtain their prior consent and provides a complete release from liability. In contrast to the scanning and snippets originally at issue, none of these new acts could be reasonably alleged to be fair use.” Because the settlement, in effect, “is tantamount to creating a private compulsory license through the judiciary,” it is “the view of the **Copyright Office** [that] the settlement proposed by the parties would encroach on the responsibility for copyright policy that traditionally has been the domain of **Congress** [and] we are greatly concerned by the parties’ end run around legislative process and prerogatives.... Moreover, the settlement would inappropriately interfere with the on-going efforts of **Congress** to enact orphan works legislation in a manner that takes into account the concerns of all stakeholders as well as the United States’ international obligations.” (For a link to the full testimony, see http://laboratorium.net/archive/2009/09/10/gbs_marybeth_peters_written_testimony.) The Settlement, in short, serves as an insurance policy for **Google** to pursue its project of digitizing what **Dan Clancy**, Engineering Director for **Google Book Search**, has estimated to be “between 80 and 100 million books in the world” free of any liability for the vast majority of those books, which are out of print. No other commercial competitor of **Google** would have such sweeping legal protection to conduct its business, which a compulsory license approved by **Congress** would create for all.

The **Amended Settlement Agreement (ASA)** takes significant steps in responding to many, though not all, of the objections raised. For academic authors who are rightsholders and opt in to the Settlement, it provides the opportunity to set prices at zero or to use **Creative Commons** licenses for designating kinds of uses that require no payment or permission. While the Settlement, in restricting its geographical scope to include only works registered in the U.S. or published in Australia, Canada, and the United Kingdom, provides for representation on the **BRR** board of an author and publisher from each of these three foreign countries, there is no guarantee that any academic author or publisher will hold such a seat.

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everything they need to perform at their best. It is important that the planners do all that is in their power to make this expectation a reality. Planners need to give themselves some time to relax and quench any qualms they might have about the programming. If this is done, all of the hard work and effort will lead to a fulfilling and successful program that all attendees will enjoy and appreciate! 🐼