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ATG Interviews Corey Williams

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Associate Director, Office of Government Relations, ALA Washington, DC Office

by **Tom Gilson** (Associate Editor, *Against the Grain*) <gilson@cofc.edu>

and **Katina Strauch** (Editor, *Against the Grain*) <kstrauch@comcast.net>

ATG: Tell us a little bit about yourself. How long have you worked on library-related issues for ALA? Are orphan works and copyright your main focus?

CW: I've worked on behalf of the **American Library Association (ALA)** and its members for three years as a lobbyist and associate director of Government Relations in the ALA Washington, DC office. I lobby on copyright-related issues, as well as telecommunications and open access issues, among others.

ATG: Does ALA subscribe to an "official" definition of orphan works? How does it fit within ALA overall position on copyright?

CW: The definition generally used by most stakeholders, including the ALA, is the **U.S. Copyright Office** definition which identifies orphaned works as those works whose copyright holders cannot be identified or located. Libraries' interest in orphaned works is one of making them accessible to the public via digitization projects, among other ways. Naturally, this is important to the ALA because one of our core values is providing equitable access to information to all.

ATG: At the recent ACRL National 2011 Conference strong interest was expressed in librarians developing their own set of best practices for digitizing and making orphan works available. Has there been any follow-up on this?

CW: There was great conversation among librarians at the **ACRL National Conference** about best practices for orphaned works. In fact, many librarians expressed that they have already crafted best practices and are following them to move forward with digitization, and other efforts. The argument for making them available is strengthened by the fact that these works are not commercially viable (i.e., no economic value), and no permission can be sought because we cannot either identify or locate the rightsholder. Also, many orphans are deteriorating, and digitization is critical for preserving these cultural and historic works.

ATG: You mention that many librarians have already crafted best practices. Are there any examples that you can point to?

CW: One good example that comes to mind is the **HathiTrust Digital Library** which is using best practices guidelines they crafted to identify orphan works in their collection.

ATG: As it stands now do all copyright holders have to be identified and found in the case of multiple authors? For example, if you have identified and found two of three authors, are libraries compelled to find the third author as well?

CW: Yes.

ATG: In the 110th Congress orphan works legislation was stalled in the House, and no orphan works proposals surfaced during the 111th Congress. Now that the judge has ruled on the *Author's Guild et al v. Google* case, do you expect a renewed effort to pass orphan works legislation?

CW: My colleagues and I anticipated some renewed interest in legislative activity surrounding orphaned works when **Judge Chin** ruled. There has been some interest expressed "inside the beltway" here in DC; however, that interest is not necessarily stemming from our members. At both **ACRL's 2011 Convention** and at the **ALA's recent Annual 2011 Conference** in June, we heard from our members that unless we could ensure a legislative solution or "fix" that was not bloated with additional requirements to what libraries already do in their attempts to identify copyright holders, they weren't interested.

Unlike commercial players, libraries' interest in making orphaned works available is for educational and not-for-profit use. Therefore, a legislative solution for orphaned works is not as necessary as perhaps it is for others because of the latitude the copyright law affords libraries, archives, and non-profit educational institutions. At this point, I would describe the talk calling for orphan works legislation as being at the level of a whisper, rather than a roar.

ATG: According to *USA Today*, Judge Chin recently "warned lawyers for authors and publishers and Google that he will decide whether snippets of books can be sold online without the permission of copyright holders if the sides do not settle their six-year-old case soon." Will this increase the volume on the call for orphan works legislation?

CW: Yes. We have always anticipated that at any point **Judge Chin** addresses the case there would be a renewed interest in pursuing orphan works legislation — at least by some stakeholders. Whether the ALA would contribute to the call is difficult to determine in advance.

ATG: In the recently-issued *Library Copyright Alliance Statement on Copyright Reform*, ALA, along with ACRL and ARL, noted that "achieving a legislative solution to any of these issues will be difficult, if not impossible." Similar skepticism was expressed at the ACRL National 2011 Conference. However, other stakeholders may feel differently. If such broader copyright reform legislation is proposed, are there specific provisions that you would advocate to protect fair use, limit library liability, permit digitalization, preservation projects, etc.?

CW: In May, the ALA along with the **Association of College & Research Libraries**

and the **Association of Research Libraries** (comprising the **Library Copyright Alliance**), released a statement (available at http://www.librarycopyrightalliance.org/bm-doc/lca_copyrightreformstatement_16may11.pdf) describing the key feature copyright reform proposals should include when a library has reasonable grounds for digitizing a work under fair use — which is reducing statutory damages that could be sought if a copyright holder were to come forward and claim a work which a library had determined an orphan. Following best practices and exercising fair use, a library may digitize works with increased confidence knowing they would not incur significant liability for copyright damages. Currently, libraries could be found liable for up to \$150,000 per work infringed if a copyright holder came forward. However, it is worth mentioning that no copyright holder has come forward seeking statutory damages — to my knowledge.

ATG: It is also worth noting that in this same statement the *Library Copyright Alliance* holds that the "courts probably would permit, pursuant to 17 U.S.C. §107, library-initiated projects involving mass digitization, the use of orphan works, and large-scale preservation." Given this statement, the status quo appears to be pretty favorable to libraries. Or are we mistaken in that observation?

CW: Yes, your observation is correct.

ATG: On a related topic, some in the library community are concerned about what they see as an assault on fair use by increasingly restrictive licensing agreements for online content. Does ALA have a position on this issue? Does ALA support the best practices licensing language espoused by organizations like ARL, the Council on Library Resources, etc.?

CW: The ALA has always had concerns with licensing language that restricts user rights. Librarians themselves can help the situation by negotiating contracts that are favorable to their users.

The ALA typically works on such issues at the federal level, and such licenses are governed by state law. That is why it is so important for members to understand what they are signing. We do receive inquiries about licensing matters in general and respond to them. We direct member inquiries to our member-moderated **Copyright Advisory Network**, a resource that the ALA Washington office's Office for Information Technology Policy (OITP) created several years ago.

ATG: In a dispute with the eBook vendor *OverDrive*, the *Kansas Digital Library Consortium* argues that because their licensing contract uses the phrase "content purchased"

continued on page 53

from OverDrive, they own the content and can transfer it to another provider. Has ALA been contacted about this matter? As a best practice, should libraries insist that such phrases be standard in eBook contracts?

CW: No, to my knowledge the ALA has not been contacted about this issue and typically does not provide legal advice on individual contracts.

ATG: In another example of publishers aggressively attempting to limit fair use, Kevin Smith reports in his blog *Scholarly communication @ Duke about a proposed injunction in the Cambridge University Press et al v. Patton et al case*. According to Smith, this proposed injunction enjoins anyone at Georgia State University from “creating, reproducing, transmitting, selling, or in any manner distributing... any and all Works without permission.” Is ALA monitoring this case? Is the threat as serious a Smith believes? What has been your and ALA’s response?

CW: Yes, the ALA is closely monitoring the Georgia State University lawsuit! Kevin Smith’s assessment is on-point. If the court case is ruled in favor of the plaintiffs (the publishers and the Copyright Clearance Center — who are funding the case), it would be a serious threat to fair use. We expect that whatever the ruling is that it will be appealed, and we will continue to monitor it closely.

ATG: From ALA’s perspective, are there other major threats to fair use that our readers should be aware of?

CW: We actively monitor court cases as well as any legislative activity that may potentially impact fair use, the first sale doctrine, or other library exceptions to copyright.

ATG: Corey, we want to thank you for taking the time out of your busy schedule to answer our questions.

CW: Thank you for your questions! It has been fun to pause and reflect on where we are and where we’re headed — legislatively and policy-wise. 🌱

against the grain people profile

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Corey D. Williams

BORN AND LIVED: A native Iowan, I moved to the Baltimore/Washington DC metro area seven years ago.

EARLY LIFE: I appreciate the perspective growing up in a small town in southern Iowa gave me. In my current work, I can relate to the unique challenges for those in rural America, in particular, in ensuring equitable access to information (e.g., sufficient broadband connections at the local library to meet patrons’ needs).

PROFESSIONAL CAREER AND ACTIVITIES: After earning a Master’s degree in Library & Information Science from the University of Iowa, I worked in e-commerce knowledge management, was an academic librarian and served as Assistant to the President at the University of Maryland Baltimore County (UMBC). I now lobby on behalf of the American Library Association on federal legislation and policy issues. I also teach a graduate course, Issues in Managing Legal Information, at the University of Maryland’s College of Information.

IN MY SPARE TIME: I’m an avid reader (of course), I enjoy running (mostly) and have a couple half-marathons under my belt and a couple more planned, and have recently gotten into road biking. I’m also a big fan of Big 10 football, more specifically the Iowa Hawkeyes!

FAVORITE BOOKS: If I had to only pick one, my all-time favorite novel is *The Fountainhead* by Ayn Rand, which I first read at the age of 15. A more recent read to be added to my “favorite books” list is *The Last Campaign: Robert F. Kennedy and 82 Days that Inspired America* by Thurston Clarke. I find myself recommending it often.

PET PEEVES: My biggest pet peeve in today’s vernacular is the overuse of the word “like.” I think it has become a verbal tick for some.

PHILOSOPHY: That which is worth doing is worth doing well.

MOST MEMORABLE CAREER ACHIEVEMENT: I am proud of the article I co-authored with Jean Donham, a colleague and mentor, published in the *Journal of Academic Librarianship* titled “Perspectives on Developing a Culture of Collaboration: Librarian as Consultant.” Another more recent memorable moment was the first time I was quoted, in print, in *The New York Times*. There’s still something about seeing it in print that is still pretty cool in this electronic age.

HOW/WHERE DO I SEE THE INDUSTRY IN FIVE YEARS: Libraries have been around for hundreds of years and have evolved and adapted to the times. I envision a future where all types of libraries — public, academic, school, etc. — remain as anchors in their communities and continue to provide access to all types of information, evolving to the needs of the public. 🌱

From the Reference Desk

by Tom Gilson (Associate Editor, *Against the Grain*, and Head of Reference Emeritus, College of Charleston, Charleston, SC 29401) <gilson@cofc.edu>

In an era of lowered expectations, ABC-CLIO is bucking the trend. The *World History Encyclopedia* (2011, 978-1851099290, \$1,845) is a “big ticket” 21-volume set being published at a time when reference budgets are in steep decline, and the validity of reference collections themselves are in question. However, after examining this set it appears that ABC-CLIO is hedging their bets a little. Not only is this title available as an eBook, but

the set had been organized with the flexibility that today’s market demands.

After much time, thought, and discussion, editors Alfred J. Andrea and Carolyn Neel, along with their team, decided to forgo “the standard A-Z organization of entries” and developed the encyclopedia along “coherent periods or eras” much in line with the *National Standards for World History* established in 1994. In order to make the final product as current as possible,

the editors mildly altered this schema “in light of our 21st-century purposes and perspectives.” The result was a reference set divided into nine distinct eras starting with Beginnings of Human Society and proceeding to Early Civilizations, 4000-1000 BCE; and Classical Traditions, 1000 BCE-300 CE. These are then followed by Expanding Regional Civilizations, 300-1000; Intensified Hemispheric Interactions, 1000-1500;

continued on page 54