

April 19, 2006

To:

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From:

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RE: written comments, 108 Public Roundtable

This written response is pursuant to the following question:

1. Eligibility for Section 108 Exceptions.

Section 108 specifically applies to “libraries” and “archives,” but does not include definitions of either term. Instead, the statute relies on the common understanding of the terms and lays out in subsection 108(a)(2) certain criteria that libraries and archives must meet in order to take advantage of the exceptions.

Definitional Issues

Recently, the terms “libraries” and “archives” have been used by some in an increasingly generic sense to embrace, for instance, online or virtual collections of information, as well as the physical institutions traditionally associated with libraries and archives. It has been suggested that, if section 108 is to be revised, it would be important to further clarify what types of institutions are covered under section 108. The roundtable discussions will address whether section 108 should include specific definitions of what is meant by “libraries” and “archives” and, if so, which characteristics of these institutions should be included in the definitions.

This written filing considers the relationship(s) between libraries/archives and other institutionalized units, especially within academic institutions, that deal with digital collections and materials.

Most universities have not only a library, but also teaching and information services area of some sort (audio/visual, new media center, teaching and technology resources, etc.) These units are often tasked with and responsible for the utilization and distribution of digital/media materials, campus wide, in support of teaching, creative production, and research. These units are sometimes organized within the library structure, but in other circumstances are quite separate.

The question is raised, then, must all the work of the university in these areas pass under the exemption extended to the library? This would change the institutional relationship among libraries and their constituencies dramatically.

For example, and as evidential support for the committee's consideration of this matter, the New Media Consortium (NMC) is an international 501(c)3 not-for-profit consortium of nearly 200 leading colleges, universities, museums, corporations, and other learning-focused organizations dedicated to the exploration and use of new media and new technologies. Through its many projects, its comprehensive web site <<http://www.nmc.net/>>, and its series of international conferences, the NMC stimulates dialog and understanding through the exploration of promising ideas and applications.

Its 203 member institutions include 9 corporate sponsors, 7 museums, 2 foundations, 5 research centers, and 180 colleges and universities. Member institutions may sponsor a number of NMC-involved participants; the NMC carries approximately 10,000 people on its mailing lists.

According to NMC CEO Larry Johnson, only 30-40% of NMC units at academic institutions are based in/organized as part of the library operations at their host institutions. The other "New Media Centers" are units not affiliated with the library (in terms of form or function).

These New Media Centers often include massive collections of digital media as they serve the information technology learning and research needs of their institutions. They provide audio-visual support for teachers, researchers, and creatives; they provide digital production services for campus communities; they provide distance learning resources across a wide range of learning, creative, and research activities.

Although the NMC provides a solid cross-sectional view of units of this nature, (obviously) not every university in the country with a Media Center is an NMC member. In other words, the needs represented by the NMC members under-represent the overall national scene regarding units that collect and disseminate digital media outside the sponsorship of the campus library unit(s).

In light of these facts, this written comment proposes that the committee recommend that with regard to the "definition of libraries and archives," all university-sponsored Media Centers (the names of which can vary by campus) be included in any and all section 108 exclusions granted to libraries and archives associated with colleges and universities for the purpose of copying, distributing, and archiving digital materials.

Respectfully,



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