Submitted: 4/3/2006

Dear Ms. Mary Rasenberger, Policy Advisor for Special Programs, U.S. Copyright Office:

I would like to provide to you the following views I have on updating Section 108 of the Copyright Law.

I am a website author, and will focus largely on Topic 4.

I develop my personal site to disseminate information. My site deals with an issue that is very close to my heart, and the more people learn of it, the more I think it can help. To that extent, I do not use any filtering methods to stop visitors.

Re: Capturing Websites

I believe that the Library should be allowed to archive websites provided the following restrictions are met:

1) I believe that provisions should be made, such that a patron is aware s/he is browsing an archived page. This should be through an obvious mean (i.e., a border on the screen, a header separated from the page content, etc), to the extent that the average patron could not confuse live content from archived content. When citing copyrighted content in written works, a reference is made back to the source of the content. Similarly, a link (if possible) or reference should be made to the patron, such that they may find the originating website.

2) The archiving mechanism (be it bot, human, or both) should recognize common blocking mechanisms, and respect such. As a web author, I can choose to limit access to certain subgroups of people. This can be accomplished through user accounts & passwords, the robots.txt file, or encryption (among other methods). Any portion of a website that is not publically accessable (where publically accesible is defined as a site not using any of the protection methods listed, nor using restriction methods yet to be developed) should not be indexed. In all cases, opt out mechanisms shall be provided, as well as a "do not archive" list (similar to a do not call list), which would provide for pre-emptive opting out.

There is no equivelent to these restrictions in analog or printed media (aside from setting a price too high for the common person). While limiting what is archived to those sites that allow free access might present a jaded historical perspective, to violate those access control mechanisms can have even more a detrimental effect. If the Library decides to violate access control mechanisms, other organizations, with more malacious intent, might

make of the Library an example, and violate those access controls ("If the government does it, it must be ok"). This will lead to private, subnets of the internet where data is no longer global, rather access controled to a few, select individuals. To me, this breaks the intent of the internet, which is to enable the free flow of information.

3) The Library should not maintain a copy of a site's driving source files for dynamically generated sites (.php, .asp, etc). Sites whose content does not change (i.e., .html), the source code is the presentation of the site, and is thus applicable to be archived. However, for sites which generate content customized to users (.php, .asp, etc), the archive should only capture the presentation (final output html code and images) tailored to a generic audience (i.e., the public, people not logged in, etc).

Re: Restrictions on Access

I believe that access should not be limited to a physical location, provided that the following measures are considered:

4) I believe that access should not be limited to physical locations. Digital content is not tied to a location, nor should the information contained in said digital content be tied to a location. However, provisions, such as presented in 1, above, should inform the user that the archive copy is not the originating copy.

5) Devices which view the archived data shall be separate from devices that store the archived data. Devices that view the archived data, which are under the facilities control, shall take positive measures to prevent the copying of said data by patrons.

6) The archive server shall take appropriate server side measures to ensure that it is not trivial to copy a page from the archive site. While no 100% solution for this exists today, several methods are reasonable to prevent the majority of non-determined copyright violators from stealing a site from the archive site. One such method would be to disable the right click on a webpage (through javascript for example).

Re: Number of Copies allowed the Library for Archive and Hazard Prevention Purposes

I believe that the number of copies a Library has should not be limited to a certain number. However, the following guidelines should be observed:

7) All copies of digital material, all being bit for bit identical to the original, are not subject to degredation over time or through replication, except the degredation present on media technologies. Therefore, because

there is no theoretical limit to the number of times a digital piece may copied, provisions shall be taken to ensure an accurate audit trail such that the number of copies of any digital work is known at all times.

8) Devices which store backup, archive, or disaster recovery copies of digital data should be access restricted. The pulbic shall not be allowed access to said devices, through either physical, or electronic means. These devices, due to the sensitive nature of materials thereon, should only be accessed by qualified Library or archive personel, who have been trained on how to maintain the audit log mentioned in 7.

Thank you for your time.

Caitlyn Byrne