

Research Roundtable on Economics of Mass Digitization: How to Advance More Public Access to In-Copyright Works?

Thursday, October 12, 2017—Friday, October 13, 2017

Searle Center Conference Room (Rubloff 542)
750 N. Lake Shore Drive, Chicago, IL

Thursday, October 12th

2:30 p.m. **Arrival and check-in**

3:00 to 5:30 **Session One—The State of Play Regarding Mass Digitization and Public Access Initiatives**

To get us started, Pam will offer an overview of different models for mass digitization and for greater public access to digital contents. She will address not only models that have been adopted, but also those that have been under consideration or proposed.

Session Leader: Pamela Samuelson, UC Berkeley School of Law

6:00 **Reception and Dinner at Devon Seafood Grille** (Wine Cellar Room-39 E. Chicago Ave)

Friday, October 13th

8:00 a.m. **Breakfast**

8:30 to 9:45 **Session Two—Private Industry Initiatives within Copyright, Antitrust and Other Constraints**

This session will focus on private industry initiatives. One initial question is how much additional entry one might expect in this area, whether from the large internet platforms or from other firms. Another set of questions pertains to business model design and pricing from the perspective of private firms. This session will also address legal issues, including institutional design of the licensing process and the role of copyright and antitrust law.

Session Leader: Paul N. Courant, The University of Michigan, Gerald R. Ford School of Public Policy

9:45 to 11:00 **Session Three—Non-Profit Library Initiatives within Copyright Constraints**
What can non-profit libraries do within copyright constraints? One concept in this area, for example, involves controlled digital lending. The discussion of libraries can also range more widely. Economically speaking, what market failures are non-profit libraries addressing? Legally, what constraints do libraries confront as they seek to participate in offering digital book to the public?

Session Leader: Brewster Kahle, Internet Archive

11:00 to 11:15 **Break**

11:15 to 12:30

Session Four—Other Governmental Initiatives: from Collections to Public/Private Partnerships

The final session addresses the role of government. How might the Library of Congress go about digitizing its collection and making it publicly accessible? Can government initiatives to expand access to disadvantaged communities be successful? More broadly, considering all the areas of law and policy that touch on this area (the Library of Congress, public libraries, copyright law, antitrust, communications law, etc.), what suite of policies makes sense? How should they be measured? What areas of law and policy most need research and study?

Session Leader: Greg Cram, The New York Public Library

12:30

Lunch

Confirmed Participants (as of 10/12/2017):

1. **Jon Bangs**, Amazon.com Inc.
2. **Paul N. Courant**, The University of Michigan, Gerald R. Ford School of Public Policy
3. **Greg Cram**, The New York Public Library
4. **Peter DiCola**, Northwestern Pritzker School of Law
5. **Michael Furlough**, Hathi Trust Digital Library, The University of Michigan
6. **Shane Greenstein**, Harvard Business School
7. **Paul J. Heald**, University of Illinois College of Law
8. **Brewster Kahle**, Internet Archive
9. **Jeff K. MacKie-Mason**, School of Information and Department of Economics, University of California, Berkeley
10. **Abhishek Nagaraj**, Walter A. Haas School of Business, University of California at Berkeley
11. **Randal C. Picker**, The University of Chicago Law School
12. **Daniel Rubinfeld**, NYU Law School and Department of Economics, University of California, Berkeley
13. **Abby Smith Rumsey**, Historian and Writer
14. **Matthew Sag**, Loyola University Chicago, School of Law
15. **Pamela Samuelson**, UC Berkeley School of Law
16. **Lea Shaver**, Indiana University Robert H. McKinney School of Law
17. **Jule Sigall**, Microsoft Corporation
18. **Jeff Ubois**, MacArthur Foundation
19. **Hal Varian**, School of Information, University of California at Berkeley
20. **Richard S. Whitt**, Alphabet Inc./Google

Recommended Readings

- U.S. Copyright Office Mass Digitization Pilot Program: <https://www.copyright.gov/policy/massdigitization/>
- Letters sent to Congress September 29, 2017:
 - Senate Judiciary Committee:
<https://www.copyright.gov/policy/massdigitization/senate-letter.pdf>
 - House Judiciary Committee:
<https://www.copyright.gov/policy/massdigitization/house-letter.pdf>
- Pamela Samuelson, [Comment Submitted in Response to U.S. Copyright Office's June 9, 2015 Notice of Inquiry, Mass Digitization Pilot Program](#) (Oct. 6, 2015).

- Brief of Amici Curiae American Library Association, Association of College and Research Libraries, Association of Research Libraries, and Internet Archive in Support of Reversal, Capitol Records, LLC v. Redigi Inc., *available at* http://www.librarycopyrightalliance.org/storage/documents/ReDigiFairUse_2017feb14-rs.pdf.
- Jonathan Band & Brandon Butler, *Some Cautionary Tales about Collective Licensing*, 21 Mich. St. Int'l L. Rev. 687 (2013), *available at* <https://osf.io/preprints/socarxiv/h5cg6/>.
- Stephen Maurer, *The Economics of Memory: How Copyright Decides Which Books Do (and Don't) Become Classics*, 14 J. Marshall Rev. Intell. Prop. L. 521 (2015), *available at* <http://repository.jmls.edu/cgi/viewcontent.cgi?article=1365&context=ripl>.
- Brewster Kahle, *Transforming Our Libraries from Analog to Digital: A 2020 Vision*, EDUCAUSE Review 26 March/April 2017.

Supplemental Readings

- Pamela Samuelson, *Google Book Search and the Future of Books in Cyberspace*, 94 Minn. L. Rev. 1308 (2010), *available at* http://www.minnesotalawreview.org/wp-content/uploads/2012/03/Samuelson_MLR.pdf.
- Pamela Samuelson, *The Google Book Settlement As Copyright Reform*, 2011 Wis. L. Rev. 479, *available at* <http://wisconsinlawreview.org/wp-content/uploads/2011/07/11-Samuelson-Final.pdf>.
- Pamela Samuelson, Symposium: Collective Management of Copyright: Solution or Sacrifice? Legislative Alternatives to the Google Book Settlement, 34 Colum. J.L. & Arts 697 (2011), *available at* <https://ssrn.com/abstract=1818126>.
- Michelle Wu, *Collaborative Academic Library Digital Collections Post-Cambridge University Press, HathiTrust and Google Decisions on Fair Use*, 1 J. Copyright in Education & Librarianship 1 (2016), *available at* <https://www.jcel-pub.org/index.php/jcel/article/view/5921/5345>.
- Michelle Wu, *Piece by Piece Review of Digitize-and-Lend Projects Through the Lens of Copyright and Fair Use*, Legal Reference Services Quarterly (forthcoming 2017), *available at* <https://ssrn.com/abstract=2968410>.
- Brief of Copyright Law Scholars as Amici Curiae in Support of Defendants-Appellants and Reversal, Capitol Records, LLC v. ReDigi Inc., *available at* <https://ssrn.com/abstract=2921890>.
- Hannibal Travis, *The Economics of Book Digitization and the Google Books Litigation*, in *Research Handbook on Electronic Commerce Law* (John A. Rothchild ed., 2016), *available at* <https://ssrn.com/abstract=2791181>.
- Ariel Katz, *Copyright, Exhaustion, and the Role of Libraries in the Ecosystem of Knowledge*, 13 I/S: J. L. & Pol'y for Info. Soc'y 81 (2016)