Copyright and Archives

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Three areas for solutions

- Technological
- Legal
- Risk Management
Technology

- Rights Information Infrastructures (RII)
- Digital Rights Management (DRM)
- Metadata:
  
is the DNA of cultural contents.

Copyright Metadata

 Metadata that provides intellectual property information about copyright works.

 “information which identifies: the work, the author of the work, the owner of any right in the work, or information about the terms and conditions of use of the work, and any numbers or codes that represent such information, when any of these items of information is attached to a copy of a work or appears in connection with the communication of a work to the public”. (Article 12, WCT, WIPO, 1996)

 NZ, Copyright (New Technologies) Amendment Act (Section 226F, 2008).
Functions of Copyright

Metadata

- Identification
- Information Retrieval
- Licensing
- Copyright Management Systems.
Rights Information Infrastructures.

- Copyright Registers
  - NZ Copyright Register until 1962 (Voluntary)
  - Registers 1944-1956: Average of 160 works per year
  - Registers 1956-1959: Average of 110 works per year
  - Mainly unpublished works were registered

- European Union the Accessible Registries of Rights Information and Orphan Works towards Europeana (ARROW)

- Copyright Hub (UK)
Copyright Management Systems.

- Authenticated users (NZ).
- Communication of digital copies that cannot be altered or modified (NZ).
- Dedicated terminals (Europe).
Legal Solutions to Orphan Works

- Exceptions (European Directive)
- Extended Collective Management (Nordic Countries)
- Compulsory Licensing (Canada, NZ Copyright Tribunal, Recordings).
- Digital exploitation of out-of-print books (France)
- Compensation Rights (TVNZ Archived Works)
Exception (European Directive)

- Libraries, educational establishments, museums, archives, film or audio heritage institutions and public-service broadcasting organisations

- Literary, Cinematographic-Audiovisual Works and Phonograms (Broadcastings and Collections).

- Non Commercial Use

- Diligent Search

- Orphans Works Database: https://euipo.europa.eu/orphanworks/
Extended Collective Management (Nordic Countries)
Compulsory License (Canada)

- Copyright Board of Canada
- Reasonable Search
- Commercial and non-commercial uses.
- (from 1990 until 2017: 296 licenses).
6. Efforts Made to Locate the Copyright Owner and Results Obtained

Please indicate the research you have done to locate the copyright owner. As per subsection 77(1) of the Copyright Act, it is the applicant’s responsibility to make reasonable efforts to locate the copyright owner.

Please ensure to indicate the individuals or organizations contacted as well as the date they were contacted. The proof of your efforts is also required for the Board to review your application (e.g. copies of emails, search results, a summary of telephone conversations, etc.).

Collective societies contacted (i.e.: SOCAN, CMRRA, Access Copyright)

A list of Canadian copyright collective societies can be found on the Board’s website at:
http://www.cb-cda.gc.ca/societies-societes/index-e.html

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Publishers contacted______________________________________________________________

Websites researched_______________________________________________________________

Individuals, organizations or companies contacted____________________________________

Other sources consulted___________________________________________________________
Digital exploitation of out-of-print books (France)


- National Library of France (BNF) and a Copyright Management Organization (Société Française des Intérêts des Authors de l’écrit).

- Opt-out

- Commercial exploitation

- Court of Justice of the European Union, Case C-301/15, 16 November 2016,
NZ – Copyright Tribunal
Copy of Recordings

- Section 192, Copyright Act.
- When the identity or whereabouts of the performer cannot be ascertained by reasonable inquiry.
Compensation Rights (TVNZ Archived Works)

A programme:

- Made by the Broadcasting Corporation of New Zealand or its predecessors, before 27 May 1989, held in the TVNZ Archive.

- A public notice must be published at least once—
  
  "(a) on an Internet site or other delivery platform operated by TVNZ; and
  
  "(b) in each major metropolitan newspaper in New Zealand; and
  
  "(c) in any relevant industry or guild publication."
Uses

Screen an archived work only on or by:

- The channels that TVNZ owns at any time
- The TVNZ Ondemand Internet site
- Providers of a delivery platform for the supply of contents (Agreement between TVNZ)
- Māori Television Service (Agreement with TVNZ)
- NZ On Screen (Agreement with TVNZ)
Risk Management

- Copyright Determination (Public Domain Calculators). http://outofcopyright.eu/
- Ownership Determination
- Reasonable Search
- Risk assessment
- Risk mitigation actions
Risk Assessment

- Scoring the Risk: Low – Medium – High
- Likelihood of Litigation
- Reputational Damage
- Nature of the work (non-commercial, etc.)
- Author’s Profile
- Risk Management Calculator (E.g. 
  http://www.web2rights.com/OERIPRSsupport/risk-management-calculator/)
Risk Management

- Documenting the process: (search, decisions, etc)
- Take and Down policies
- Transparent information to users
- Accurate use of rights statements
- Technological restrictions
Final Remarks


- To prevent new orphan works (good practices, recording information, contracts).

- NZ Copyright Metadata Port
  - NZ Public Domain Calculator
  - NZ Risk Management Calculator (Archives)
  - Documentation of Diligent Search provide evidence for Copyright Reform