Research Library Issues

A Bimonthly Report
from ARL, CNI, and SPARC
A Special Issue on Strategies for Opening Up Content

Strategies for Opening Up Content: Laying the Groundwork for an Open System of Scholarship

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It seems not so very long ago that an easy strategy for libraries to open up content was to let people roam the stacks. Many library users did and still do think of library and information content as books and journals and, more recently, audiovisual and other non-book formats. These materials were located in physical facilities and library users looked for them using first card catalogs and then online catalogs. How things have changed. Within a generation, a significant amount of content became digital and is now being delivered in a myriad of formats. As content has moved digital, there are as many ways to make content open as there are kinds of content.

Technologies exist to mix and mash, morph and merge content to bring new ideas together. Bibliographic information and metadata are pushed and pulled through Internet and Web technologies that are now part of the library user's daily life. However, that same Internet has made it possible for content to become less accessible. Barriers of cost and firewalls can prevent library users from obtaining necessary information. Content can be so fragmented that it is difficult to find. Digital therefore doesn't necessarily mean easily available. The research library is still challenged to find ways to bring its collections and users together.

This issue of *RLI* focuses on several strategies now being deployed by institutions and individuals to increase the amount of content that is open and available to the research library community and by extension the larger world. Research libraries may have a role to play in all of these strategies, but it is important to note that the drivers to open up content often are others in the scholarly and research community as well. The strategies discussed in this issue

of *RLI* are by no means all of the possible strategies, but taken together they provide insights into how institutions and individuals can work collectively to build a strong foundation that will enable content to be opened up for use.

Campus Open-Access Statements from ARL Institutions

Boston University, February 2009
http://www.bu.edu/today/node/8320

Brigham Young University Instructional Psychology and Technology, November 2009
http://opencontent.org/blog/archives/1137#axzz0mLbfHi8M

Cornell University, May 2005
http://www.library.cornell.edu/scholarlycomm/resolution.html

Duke University, March 2010
http://library.duke.edu/blogs/scholcomm/category/open-access-and-institutional-repositories/

Harvard University
Business School, February 2010
Faculty of Arts and Sciences, February 2008
Graduate School of Education, June 2009
Kennedy School of Government, March 2009
Law School, May 2008
http://osc.hul.harvard.edu/OpenAccess/policytexts.php

University of Kansas, April 2009, revised February 2010
http://www.lib.ku.edu/scholcomm/openaccess/

Massachusetts Institute of Technology, March 2009
http://info-libraries.mit.edu/scholarly/faculty-and-researchers/mit-faculty-open-access-policy/

University of Nebraska–Lincoln, April 2010
http://www.unl.edu/libr/news/documents/UNL_IR_resolution.pdf

University of Oregon Department of Romance Languages, June 2009
http://insideoregon.uoregon.edu/romance-languages-adopts-open-access-mandate/

Southern Illinois University Carbondale, April 2010
http://facultysenate.siuc.edu/0410atta.pdf
http://facultysenate.siuc.edu/0410attb.pdf

Institutional Strategies

A recent development at the institutional level has been the movement by faculty groups to pass resolutions in support of open access. The process of policy development is highly dependent on the governance structure at the particular university and the wording of the final resolution is necessarily a product of that process. The most important aspect of this movement is that the resolutions are being led by faculty members. Research libraries provide support and often help to coordinate the activities, but the case for openly accessible content is being made by the scholar leader. In their article, Ada Emmett and Town Peterson provide a glimpse into the process at the University of Kansas.

Another strategy being used at the campus level is the development of open-access (OA) funds. OA funds are set aside by an institution to support publication models that enable free, immediate, online distribution of, and access to, scholarly research. The late 2009 announcement of the establishment of the Compact for Open-Access Publishing Equity (COPE) increased interest in this strategy. COPE encourages universities and research-funding agencies to develop "durable mechanisms for underwriting reasonable publication charges for articles written by [their] faculty and published in fee-based open-access journals." Greg Tananbaum of ScholarNext has written a practical guide for

the implementation of an open-access fund and, in this issue of *RLI*, summarizes some of the major considerations involved when undertaking this activity.

Library Strategies

As content formats change, libraries seek new ways to make that content available. Since libraries and consortia license a significant amount of digital content on behalf of the user community, it is appropriate to look to changes in terms and conditions that would ensure that content be made as open as possible. In this issue of *RLI*, Ivy Anderson describes an effort by an ad hoc working group to add a clause to content licenses in order to include author self-archiving rights. The draft clause is now being circulated to libraries, their stakeholders (both internal and external), and the broader library community to gather comments and encourage discussion.

In addition to licenses, libraries are involved in a number of other activities to open up content. Foremost in this set of activities is the digitization of special collections, the participation in mass digitization projects, the support for electronic theses and dissertations, and the exposing of metadata for works held in library collections. Research libraries also manage repositories and support publishing activities (particularly for journals) on behalf of their institutions. These strategies have become component parts for a new open system of scholarly communication.

Author Strategies

Ultimately, though, decisions about opening up content are the responsibility of the copyright holder. There are several strategies now in place that authors can use to open their content. Libraries have been engaging authors in discussions for many years about their rights as copyright holders.

Before publication, author-rights addenda developed by SPARC and local campuses have been used by many authors to modify their publishing agreements. In recent years, authors have been encouraged to use Creative Commons (http://creativecommons.org/) and Science Commons (http://sciencecommons.org/) licenses.

As authors are finding bibliographic data about their published work on the Internet, they have become interested in opening up the full content. In her article, Melissa Levine describes a newly developed HathiTrust permissions agreement by which authors can designate that their work be made available.

Additional Strategies

Not included in this issue of *RLI*, but just as important to the scholarly system, are those strategies to open up content that result from funder mandates and public policy actions. Many funders mandate that researchers deposit publicly funded or research institution–funded work in digital repositories as a condition of receiving the grant. This helps to build the corpus of openly accessible research information.

All institutions can examine the variety of ways in which content can best be opened up and made available to the larger community. ARL itself has begun the process to open up its older publications. Many titles were scanned through the Google Books Library Project. As a Google Books publishing partner, bibliographic data for ARL content has been exposed in Google Book Search and is now being made 100% viewable. ARL also recently used the HathiTrust permissions agreement to open up one of its own publications and will open more in the near future.

As content formats and delivery have changed, so have the opportunities and strategies to increase content availability. This issue of *RLI* explores just a few of these means. Research institutions, libraries, and authors can examine their own circumstances and, working together, identify those strategies that have the best prospects to open up content that will result in a more open system of scholarship.

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Achieving Consensus on the University of Kansas Open-Access Policy

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In April of 2009 the University of Kansas (KU) Faculty Senate passed an open-access policy much like Harvard, MIT, and Stanford faculty's, a decision that was expanded and improved in a second vote in February 2010. With these policy decisions, KU became the first public university to pass a university-wide policy of this sort. A long-standing interest in addressing the systemic failings of access to university scholarship prepared KU to develop and support such measures.

The KU open-access policy is not a new phenomenon for the university. Rather, in 2005, KU faculty governance passed a resolution to encourage greater access to scholarship created at the university, under the leadership of then Provost David Shulenburger. KU also made a key early investment in the development of an institutional repository, KU ScholarWorks, which is now serving as the platform for the open-access materials levied by the current policy.

The 2009–2010 policy asserts the rights of KU faculty regarding the provision of worldwide access to their scholarly peer-reviewed journal articles. The policy was the product of a broad, collaborative effort by members of the faculty (including librarians), administration, and faculty governance. KU's Faculty Senate is considered a vibrant and healthy institution within the university. In fall 2008, with a short turnaround time, a small but devoted ad hoc subcommittee of the Faculty Senate Research Committee was charged with developing a policy for the Faculty Senate's consideration by the end of the academic year (spring 2009). As part of their work, a Web-based survey was distributed to KU faculty to assess their attitudes about and knowledge of open

access, and two open meetings were held. Hundreds of e-mails were exchanged between ad hoc subcommittee members and faculty interested in or concerned about the policy. Faculty Senators were given an informational presentation on the issues; later, in spring 2009, a draft policy document with a longer informational document was shared with all KU faculty prior to a vote on the Senate floor.

As part of a series of negotiations with the Faculty Senate, the policy was approved overwhelmingly in April 2009, albeit with some revisions to the ad hoc subcommittee's proposals. That policy required that additional information be described, outlined, and presented to the Faculty Senate for approval by spring 2010. As a result, a new and larger implementation task force was formed in the summer of 2009, composed of faculty from a range of disciplines and ranks (including librarians), university administrators, and a representative of the Faculty Senate. All members of the task force were strong supporters of the basic idea of open access, even if not yet well informed of the complex issues.

> Achieving reasonable levels of consensus across such a diverse faculty required diplomacy, patience, forethought, and careful crafting of presentations and messages to faculty.

Starting that summer this new task force worked tirelessly to consult with and inform faculty across campus, seek guidance on policy revisions, and outline an implementation plan. The implementation plan described processes that would be undertaken to carry out the terms of the policy. In an iterative and deliberative process that involved over 200 faculty and administrators in over 20 public meetings (brown bag lunches, open meetings, administrative meetings, departmental meetings, and Senate briefings), faculty were engaged, questions and concerns addressed, and feedback received. The task force then considered, debated, and summarized the input received, and wrote new drafts of the policy and implementation plan. "Early adopter" departments and individual faculty members were enlisted to test implementation processes as well.

A progress report was presented to the Senate Executive Committee and the Faculty Senate, and was received enthusiastically. In February 2010, final drafts of recommended revisions to the policy and the implementation document were provided to the aforementioned bodies. Finally, after some debate on the Faculty Senate floor, the policy was approved as submitted and the implementation document endorsed. With this approval and endorsement, KU's open-access policy took full effect.

One observer recently noted that KU is now the first university to have an

open-access policy pass twice. The process took two full academic years, and considerable investment of time and effort by members of the KU faculty and administration, including library faculty in leadership roles within the Faculty Senate. Achieving reasonable levels of consensus across such a diverse faculty required diplomacy, patience, forethought, and careful crafting of presentations and messages to faculty.

Ada Emmett served on the ad hoc subcommittee in 2008–2009, and subsequently led the 2009–2010 implementation task force, which achieved the second and final approval of the policy. Town Peterson chaired the aforementioned ad hoc subcommittee in 2008–2009, during which the original policy was approved, and in 2009–2010 he served as a member of the implementation task force. For information and documentation about the process at the University of Kansas and about the assistance, both informational and in-person, offered to faculty, please see http://openaccess.ku.edu/ or e-mail Ada Emmett aemmett@ku.edu.

The KU open-access initiative now is in the hands of librarians and staff at the Center for Digital Scholarship within the libraries, with the Dean of Libraries having been selected to serve in the role of "Provost's Designate" for policy issues and implementation. The initiative has entered a "build-out" phase, in which more educational efforts aimed at preparing the remainder of the faculty for participation will be combined with implementation of the final details of supportive technology (e.g., Web interfaces and reporting modules), rights-management and submission assistance for faculty. Open-access policy activities and participation are expected to ramp up dramatically over the coming two years.

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Improving Access with Open-Access Publishing Funds

Greg Tananbaum, ScholarNext

An open-access (OA) fund is a pool of money set aside by an institution or other research-sponsoring entity to support publication models that enable free, immediate, online distribution of, and access to, scholarly research. In late 2009, OA funds gained prominence when a number of high-profile institutions signed the Compact for Open-Access Publishing Equity (COPE). COPE encouraged universities and research-funding agencies to develop "durable mechanisms for underwriting reasonable publication charges for articles written by its faculty and published in fee-based open-access journals."[1] As of this writing, 10 North American universities are operating OA funds: University of Calgary; University of California, Berkeley; Columbia University; Cornell University; Harvard University; University of North Carolina at Chapel Hill; University of Oregon; University of Tennessee; Wake Forest University; and University of Wisconsin–Madison.

There are a number of reasons an institution might consider launching an open-access fund. Each year a smaller percentage of all scholarly publications is available to researchers because of increasing subscription prices and decreasing library budgets, even though the production and quantity of scholarly information is growing exponentially. Faculty members traditionally give away their copyrighted work to publishers and the academy often buys back the content at premium prices. OA funds can potentially improve access to research and accelerate the online availability of peer-reviewed scientific and scholarly journal articles.

According to the institutions that have established open-access funds, the funds' activities are consistent with a trend toward support of a wide array of OA initiatives in which faculty are increasingly interested. Faculty members are regularly exercising their stake in ensuring both the speed and the reach of research dissemination, by publishing in OA journals, depositing in OA repositories, retaining their copyrights, and pursuing campus-wide policies for OA to institutional research outputs.[2] The creation of an open-access fund offers

support to faculty members poised to publish in OA journals, and establishes a dialogue between an institution and its authors to better assess their specific interests and concerns, and to direct financial resources appropriately.

SPARC has recently taken a number of visible steps to support further exploration of the open-access fund model. These activities include compiling data from every North American university with a fund and rendering those data accessible for further analysis; creating a practical guide for institutions evaluating the implementation of an OA fund; and publishing an online clearinghouse that includes frequently asked questions, case studies, links to further reading, and a variety of other tools to facilitate greater understanding and evaluation of open-access funds.[3]

In the event that an institution decides to pursue an open-access fund, SPARC recommends taking a close look at the experiences of other institutions that have already proceeded down this path. It was in this spirit that SPARC created "Campus-Based Open-Access Publishing Funds: A Practical Guide to Design and Implementation," which is freely available under Creative Commons license.[4] The issues involved in the creation and management of an open-access fund can be complex. For example, look no further than funding. From where is the money going to come? Will the library support the project out of its general fund? Can dedicated gifts be raised? Will other campus units (e.g., the Office of Research, individual departments) contribute, and, if so, what are their interests and expectations? Another issue is eligibility, both in terms of who within the institution has access to the funds and the types of publications that should be covered. What author charges should the fund cover? Should hybrid journals with open-choice plans be included? Can a journal place any restrictions on article accessibility? Who within the institution will be eligible? Are there any caps on how much the fund will cover per article, per author, or per year? While there may not be a "right" answer to these questions, it is in the best interest of institutions contemplating the creation of an open-access fund to have a full understanding of the range of issues they must address.

Different institutions are experimenting with different implementations based on a variety of issues—motivation behind the fund, amount of money available, faculty understanding of OA issues, and so forth. SPARC is sharing these experiences in both quantitative and qualitative ways via its open-access fund resource page. From a quantitative perspective, the nine North American institutions with active funds as of this writing provided a wealth of data about

the number of articles approved, the number of authors who have used the fund, the number of unique journals in which these articles have been published, and so forth. These data, which SPARC intends to update regularly, are available online as a chart of "Open-Access Funds in Action."[5] This chart also contains a wealth of information about the policies and procedures associated with each institution's fund implementation. Qualitatively, representatives from each of these institutions generously provided insights into their experiences and the lessons they have learned to date. This input informs many of the resources found on the SPARC open-access fund site, including the questions that key actors (administrators, authors, and publishers) typically raise about open-access funds. For a complete list of frequently asked questions, please visit the SPARC Web site.[6]

Open-access funds are a topic of much discussion within the scholarly communication community. The time is right for analysis and investigation of the use of these funds as a potentially valuable tool in expanding access to information. This suite of resources developed by SPARC will facilitate that effort.

[1] For more on the Compact for Open-Access Publishing Equity, see http://www.oacompact.org/.
[2] For more information, see the SPARC Web site http://www.arl.org/sparc/advocacy/campus/.
[3] Resources about open-access funds are available at http://www.arl.org/sparc/openaccess/funds/index.shtml.
[4] "Campus-Based Open-Access Publishing Funds: A Practical Guide to Design and Implementation," http://www.arl.org/sparc/openaccess/funds/guide.shtml.
[5] "Open-Access Funds in Action," http://www.arl.org/sparc/bm~doc/fundsinaction.pdf.
[6] Frequently asked questions about open-access funds, http://www.arl.org/sparc/openaccess/funds/faq.shtml.

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Model Language for Author Rights in Library Content Licenses

**Ivy Anderson, Director of Collections, California Digital Library,
on behalf of the Ad Hoc Working Group on Author-Rights
Language in Library Content Licenses**

Academic and research libraries today are increasingly charged with facilitating the management and dissemination of the scholarly output of their parent institutions. This activity frequently takes the form of organizing the deposit of scholarly work such as research articles and working papers in institutional, national, or subject-based repositories in order to make these works broadly available to other interested scholars and the wider public. Authors of scholarly work also increasingly wish to retain significant rights in the work that they produce rather than transferring all such rights to an external publisher.

Although these activities and expectations are becoming widespread, many barriers exist to their straightforward adoption. Not the least among such barriers is the difficulty in negotiating agreements between authors and publishers permitting the retention of an appropriate set of rights to support these activities. Scalable solutions are needed to ensure that a consistent bundle of rights can be retained by institutionally affiliated authors to support emerging standards in information dissemination and repository services.

The content licenses that libraries negotiate with publishers offer a ready vehicle to address this need. Because these agreements exist at the level of the institution and the publisher, content licenses are well positioned to facilitate scalable and consistent arrangements for managing research output at the institutional level. Licenses introduce a degree of efficiency that can make the necessary rights transactions significantly more economical for all parties.

A number of institutions in recent years have sought to include author self-archiving rights in the content licenses they negotiate. For example, language addressing the right of authors to self-archive their work was introduced into the Joint Information Systems Committee's "Model NESLi2 Licence for Journals" in

October 2006,[1] and the Massachusetts Institute of Technology (MIT) has included author-rights language for a number of years in its standard license. However, despite these individual efforts, there is at present no broadly accepted community standard for securing author rights within a library content license.

The idea of developing model language for author rights in library content licenses emerged at a meeting on policy development for open-access repositories hosted by the Association of Research Libraries (ARL) in January 2009.[2] Participants at that meeting posited that developing standardized language to address the right of re-use and deposit within such agreements would facilitate the broad-based implementation of emerging policies and best practices for making scholarly content available to a wide audience. This idea was elaborated in an article by Ellen Duranceau and Ivy Anderson in ARL's *Research Library Issues,* no. 263 (April 2009).[3]

To further this effort, an ad hoc working group[4] was self-organized in late 2009 to explore the feasibility of drafting standard language for author rights that could be included in library content licenses. The working group is now publishing the following draft recommended license clause for public comment and discussion. Readers are encouraged to share this

Author Rights Model License Language (Version 0.8, April 2010)

Authors' Rights to Use Their Own Work. Notwithstanding any terms or conditions to the contrary in any author agreement between Authors and Licensor, Authors affiliated with Licensee whose work ("Content") is accepted for publication within the Licensed Materials shall retain the non-exclusive, irrevocable, royalty-free right to use their Content for scholarly and educational purposes, including self-archiving or depositing the Content in institutional, subject-based, national or other open repositories or archives (including the author's own web pages or departmental servers), and to comply with all grant or institutional requirements associated with the Content.

For the avoidance of doubt, it is the intent of the parties to this agreement that Authors are third party beneficiaries of this provision of the Agreement.

Definitions

Content: Any version (including the published version) of any work by an author affiliated with Licensee that is published in the Licensed Materials.

Scholarly and educational purposes: Purposes encompassing teaching, research, and institutional needs, including but not limited to the right to (a) use, reproduce, distribute, perform, and display the Content in connection with teaching, conference presentations, and lectures; (b) make full use of the Content in future research and publications; (c) republish, update or revise the Content in whole or in part for later publication; (d) meet requirements and conditions of research grants or publishing subventions provided by government agencies or non-profit foundations, and; (e) grant to the Author's employing institution some or all of the foregoing rights, as well as permission to use the Content in connection with administrative activities such as accreditation, mandated reports to state or federal governments, and similar purposes. In all cases, the Author and/or the Author's employing institution will be expected to provide proper citation to the published version.

Repositories or archives: Open-access digital repository services such as those provided by the Author's employing institution, an academic consortium, a discipline-based entity, or a governmental funding agency.

proposal with relevant stakeholders at their institutions and within their communities.

Comments are welcomed and may be directed to Ivy Anderson, California Digital Library, ivy.anderson@ucop.edu.

1 For more information, see "The Model NESLi2 Licence for Journals," http://www.nesli2.ac.uk/model.htm.
2 Karla Hahn, "Achieving the Full Potential of Repository Deposit Policies," *Research Library Issues: A Bimonthly Report from ARL, CNI, and SPARC,* no. 263 (April 2009): 24–32, http://www.arl.org/resources/pubs/rli/archive/rli263.shtml.
3 Ellen Duranceau and Ivy Anderson, "Author-Rights Language in Library Content Licenses," *Research Library Issues: A Bimonthly Report from ARL, CNI, and SPARC,* no. 263 (April 2009): 33–37, http://www.arl.org/resources/pubs/rli/archive/rli263.shtml.
4 Working group members are: Ivy Anderson (California Digital Library), Julia Blixrud (ARL), Kenneth Crews (Columbia University), Ellen Duranceau (MIT), Melissa Levine (University of Michigan), James Ottaviani (University of Michigan), Michelle Pearse (Harvard Law School), Tom Sanville (Lyrasis), and Kevin Smith (Duke University).

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Opening Up Content in HathiTrust: Using HathiTrust Permissions Agreements to Make Authors' Work Available

Melissa Levine, Lead Copyright Officer, University of Michigan Library

Background note: HathiTrust is a repository based at the University of Michigan for the digitized content of some of the nation's great research libraries. Content is growing daily and already contains more than 5.6 million volumes. Works in the public domain are open to all researchers—whoever and wherever they may be. Access to materials still in copyright is governed by copyright law and permissions granted by individual rights holders. Works that HathiTrust partners do not have rights to make available are not made available—or are made available under very limited circumstances, such as for certified users with disability who need to make use of a screen reader in order to access materials. This article is about steps put in place by the University of Michigan Library to empower authors to open up access to the in-copyright titles that are deposited in the HathiTrust repository.

At the University of Michigan Library, efforts to maximize the amount of legally accessible material in HathiTrust have brought renewed attention to the options available to authors as copyright holders of works. Many scholarly works are out of print and commercially unavailable, thus as a practical matter a tremendous amount of information, thought, and knowledge is unavailable to today's scholars and students. Print runs for monographs are expensive and historically rather small. Articles, if available at all, are typically accessible only to those people affiliated with a research library that can sustain expensive subscriptions and licenses.

HathiTrust seeks ways to open as much content as legally possible with an overarching philosophy consistent with a research library's commitment to inquiry and concurrent needs for preservation and access, with all of their parallel complexities. Simply, the library is looking for ways to educate scholars

HathiTrust Partners

HathiTrust membership currently consists of the member libraries of the Committee on Institutional Cooperation (CIC), the University of California system, Columbia University, and the University of Virginia, but is open to interested research libraries internationally. Current institutions include:

California Digital Library
Columbia University
Indiana University
Michigan State University
Northwestern University
Ohio State University
Penn State University
Purdue University
University of California, Berkeley
University of California, Davis
University of California, Irvine
University of California, Los Angeles
University of California, Merced
University of California, Riverside
University of California, San Diego
University of California, San Francisco
University of California, Santa Barbara
University of California, Santa Cruz
University of Chicago
University of Illinois
University of Illinois at Chicago
University of Iowa
University of Michigan
University of Minnesota
University of Wisconsin–Madison
University of Virginia

See the HathiTrust Web site for information about how to get involved: http://www.hathitrust.org/join/.

about their rights, to help them exercise copyrights they may have long after a book is published and is out of print, to increase awareness as to how these rights can be availed to give their books new life. For many of these books—and their authors—this is a renaissance in the true sense of rebirth.

Past Practice for Copyright Assignment

Scholars typically assign or transfer copyrights to their works to publishers in order to gain the reputational benefit of publication, peer-review resources, copyediting, marketing, and design for their work. All of these benefits can be more significant for academics than any direct expectation of monetary reward in the form of royalties or fees from publishers, but sales are also important for many. In addition to assigning copyright to the original scholarship, authors are typically expected to obtain and pay for permissions, to reproduce images or other copyrighted material in their work, provide documentation of permissions to their publishers, as well as sign a "hold harmless" agreement. Even though suits against scholarly authors by their publishers are almost unheard of, technically, authors are contractually liable for any flaws in their chain of permissions.

Publishers absolutely need these assurances, yet this seems a significant administrative and legal burden for many writers. Scholarly writers often express frustration at the administrative burden and the anxiety associated with obtaining permissions that a publisher will find adequate. A corollary of this is a certain understandable conservatism or fear that may lead to a reduced exercise of legitimate fair uses. Many of the efforts to engage academics in

open access today are in response to these concerns. At its foundation, the issue for scholarly authors and their readers is simply meaningful access to out-of-print and unavailable works.

Enter HathiTrust

Over the last year or so, authors began to contact the University of Michigan Library, requesting that HathiTrust open the full text of their works for public access. This interest corresponded to the increased visibility of the titles resulting from public access to the bibliographic information available through HathiTrust. In response, the University of Michigan Library developed a simple agreement form for HathiTrust that allows HathiTrust to obtain permission from the copyright holder to make digital copies and reproduce the full text in HathiTrust's repository without restriction.[1]

This short agreement lets the author retain all of his or her rights, and the grant of rights is non-exclusive. This allows HathiTrust to make and distribute reprints or other paper copies for noncommercial scholarly purposes. The author does need to promise ("warrant") that they are the copyright holder of the work and can authorize the proposed copying and distribution. HathiTrust asks the author to indicate whether they still possess the copyright, whether the publisher transferred ("reverted") the work back to the author, or whether the copyright was obtained in some other way (such as transfer, gift, divorce decree, or inheritance). A space for "other" is included allowing the copyright holder to indicate his or her particular situation.

The agreement requires the author to confirm that the work does not violate the rights of others and that all permissions needed were obtained that would allow the full use of the work in HathiTrust, including the creation of digital copies. The agreement form includes such key information as name, mailing

Opening Content through MPublishing

Thinking about authors, publishers, and long-term preservation and access as an ecosystem pervades libraries and is certainly evident within the newly created MPublishing group at the University of Michigan Library.

To create MPublishing, the library brought together the Scholarly Publishing Office, University of Michigan Press, Deep Blue (the university's institutional repository), administration of the Text Creation Partnership, and the Copyright Office under the leadership of a new Associate University Librarian for Publishing, Maria Bonn.

One example of MPublishing's ecosystem approach is demonstrated by Jim Ottaviani, who directs Deep Blue and works tirelessly to engage campus authors, to help them deposit their work in Deep Blue, and to encourage open access on a practical level.

The University of Michigan's Scholarly Publishing Office is developing an authors' reprint service for sales (essentially at or just above cost), digital access, printing on the Espresso Book Machine, or distribution via Amazon.

In addition to committing the majority of its scholarly titles to be full-text viewable within the HathiTrust, the University of Michigan Press has welcomed the use of Creative Commons licensing by its authors to encourage wider distribution and access to the author's work.

MPublishing is also exploring ways to engage with open educational resources and open courseware with Open. Michigan (based at the University of Michigan Medical School).

For more details, visit the MPublishing Web site http://www.lib.umich.edu/mpublishing/.

address, e-mail address, and phone number, with a signature and date area. The agreement maintains administrative ease.

Rights-Reversion Clauses

This HathiTrust approach works where the author is, in fact, the copyright holder. Most authors transfer rights to publishers as discussed above; however, their contracts typically include provisions that allow the author to reclaim his or her rights if the book goes out of print. These rights reversion clauses typically look like this:

> If after __ years following the date of publication, the Publisher shall advise the Author in writing that they find it necessary to discontinue publication, or if the Publisher fails to keep the work in print and neglect to reprint it within six months of the Author's written request that they do so, then the Author shall have the right to terminate this agreement by written notice.

Clauses like this usually allow the publisher to elect to put the work back in print or alternatively revert the rights to the author. The author usually has the opportunity to purchase printing plates if they exist at around 25% of cost and to purchase any remaining copies of the work at or below cost. However this kind of clause is somewhat outdated: consider language regarding "plates" as part of the printing process. As a practical matter, as publishers are able to work with authors to develop publishing models for digital materials, this kind of provision may become obsolete as no work need ever go out of print.

…the cycle starts with and returns to authors, who can be newly empowered to exercise rights they do have….

The essential framework for rights reversion to the author is fairly simple though not often exercised.[2] The Copyright Office at the University of Michigan Library helps authors understand the provisions of their publishing contracts and discusses these provisions with authors who are interested in exploring their options for their work deposited in HathiTrust. Broadly, HathiTrust is looking for ways to make content widely available. Authors want citations, a sense of participating in an academic legacy, and renewed relevance. Some of the most enthusiastic voices come from retired faculty who want to leave a legacy through their written work that is independent of any expectation of payment.

Together, the libraries in the HathiTrust are thinking about how to consider

the larger framework of scholarly publishing and how it supports scholarship and society. How can HathiTrust think about new roles and different funding models to sustain the stewardship of intellectual resources? The academic in the ivory tower may be a romantic and outdated image—especially as academics can sit in their towers (well, cubicles) and communicate globally with ease.

Strategies to Empower Authors

John Wilkin is the University of Michigan Library's Associate University Librarian for Library Information Technology and Executive Director of HathiTrust. Wilkin says that "one of the more gratifying parts of building HathiTrust is bringing together the monographic works of our own scholars, of the stars at our research institutions. As the initiative has gained recognition, faculty from universities around the world have sent in permissions forms to open their works. Being able to permit broad access to these works feels like the epitome of scholarly communication."

HathiTrust and its partners hope that research libraries will think about how they can leverage their relationships with their authors to do novel things in conjunction with their repositories, especially in the area of author reprints. HathiTrust tries to think creatively and identify opportunities across activities; ideas sometimes come simply from sharing a cup of coffee. As individuals and institutions, librarians and libraries often maintain longstanding professional and personal relationships with current and retired faculty. Over time, personal contact with a faculty member can generate significant contributions—for example, gaining their permission to open all the content where they have the authority to do so. The experience of HathiTrust confirms that the cycle starts with and returns to authors, who can be newly empowered to exercise rights they do have and to be active participants in the global distribution, preservation, and access to their work as never before.

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1   The agreement form is listed with other rights information on the HathiTrust Web site http://www.hathitrust.org/rights_management.

2   As a separate matter, Section 203 of the US Copyright Act provides for termination of transfers and licenses granted by the author—essentially, certain limited opportunities to "revert" transferred rights in very specific situations. Interestingly this provision is the focus of a recent *Federal Register* from the US Copyright Office. See the request for comments, "Gap in Termination Provisions; Inquiry," *Federal Register* 75, no. 59 (March 29, 2010): 15390–15391, http://www.copyright.gov/fedreg/.

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