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# Grey Literature, Experimental Works and Shifting Roles: Case Studies, Opportunities and Legal Challenges Around Students as Producers

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(C) include a copyright notice identifying the copyright owner and the date of the original publication” (17 USC § 121).

Librarians should not let these limitations or requirements prevent them from utilizing this exception when applicable, especially as the courts have validated its use in making accessible copies of works available to those with disabilities. **Judge Baer** states in his opinion on the *HathiTrust* lawsuit “the provision of access to previously published non-dramatic literary works within the HDL fits squarely within the Chafee Amendment” (902 F. Supp. 2d 445 (S.D.N.Y. 2012)).

**Other Considerations — International Treaties.** *The Marrakesh Treaty to Facilitate Access to Published Works for Persons who are Blind, Visually Impaired, or Otherwise Print Disabled* (Treaty) entered into force on September 30, 2016 and requires signatory countries (of which the U.S. is one) to adopt limitations and exceptions into their copyright law that allows the making of accessible copies of works, the “cross-border sharing of these accessible formats, ... and the importation of works created in other languages.”<sup>5</sup> Writing on behalf of the **Library Copyright Alliance**, **Jonathan Band** has published *A User Guide to the Marrakesh Treaty*.<sup>6</sup> In the document, **Band** provides an overview of the issues that brought about the Treaty, works through the Treaty’s provisions, and identifies ways in which U.S. copyright law complies with the Treaty. The guide should be reviewed by all library staff and employees who are involved in making accessible copies of works for patrons as it can greatly aid them in understanding and applying the Marrakesh Treaty to these situations.

### Exceptions in Action

The “Framework for Analyzing any U.S. Copyright Problem”<sup>7</sup> developed by **Smith**,

**Macklin**, and **Gilliand** can help librarians begin to work through copyright considerations when presented with a request for an accessible format of a work held in the library’s collection. When librarians reach question #2 that asks “Is there a specific exception in copyright law that covers my use?” they can consider the exceptions found in Sections 107, 110(8), and 121 of U.S. copyright law as well as the provisions of the Marrakesh Treaty. In the event that the making of an accessible copy does not fall under one of these exceptions **Smith** and **Macklin** outline other options librarians can consider, including obtaining permission or a license from the rightsholder to make the alternate copy.

An important consideration included in **Smith** and **Macklin’s** framework is the licensing of library resources. When entering into a contract with vendors, librarians should ensure there is no language in the license agreement barring the creation of alternate versions of works or prohibiting library employees from taking advantage of the exceptions found in U.S. copyright law as this would prevent them from making accessible versions of works for those with disabilities in the manner outlined here. The library’s legal counsel can assist librarians in reviewing and negotiating vendor contracts as well as provide guidance on interpreting and applying copyright law when making accessible copies of resources. Librarians can also find additional information on copyright and accessibility issues by reaching out to fellow librarians who specialize in these areas and by participating in educational opportunities such as webinars and conference sessions that are provided by knowledgeable and reputable instructors.

Dealing with any legal situation can be daunting, however the complimentary nature of the *ADA* and the exceptions found in U.S. copyright law allows librarians to balance their ethical obligations to provide equitable access to all users while at the same time showing “respect [for the] intellectual property rights”

of content creators.<sup>8</sup> The next steps in resolving resource accessibility issues must involve getting rightsholders and vendors to provide accessible versions of resources up-front to help eliminate the delays caused by converting the non-accessible resources into accessible ones. By collaborating with those patrons who have disabilities to address this issue as well as maintaining an open dialogue on the services, tools, and resources that are most beneficial to them, librarians can help set the example for others regarding the importance of accessibility in all facets of our society. 🌸

### Endnotes

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## Grey Literature, Experimental Works, and Shifting Roles: Case Studies, Opportunities, and Legal Challenges around Students as Producers

by **Mira Waller** (Associate Head, Collections & Research Strategy, NCSU Libraries) <[mpark@ncsu.edu](mailto:mpark@ncsu.edu)>

### Introduction

Traditionally, libraries have served as both disseminators and preservers of knowledge, often providing services and support that focus on completed works and information sharing. At the same time libraries have always played a part in supporting information creation, but in recent years libraries seem to be taking a more active role in directly working and collaborating with users,<sup>1</sup> and in particular students, to create knowledge in new and experimental

ways. In the **North Carolina State University (NCSU) Libraries**, we have been actively engaging with students and faculty to facilitate the creation and display of student works across formats, mediums, and disciplines, and our students consistently amaze and delight us with creative and high quality productions. From scholarly papers to audio recordings, videos and film to 3D-printed products, computer code and circuit work, students are creating works that include traditional mediums, as

well as emerging ones, with many works being a blend of both.

By providing students with tools, collaborative and high-tech spaces, and expert support, libraries can enable students to more fully participate in the scholarly enterprise, as well as contribute to the shift in the role of students from consumers to producers of knowledge. This type of paradigm shift, however, is not without challenges, and can often affect unan-

*continued on page 20*

ticipated areas. These challenges require us to meet technical, political, and social demands, and raise a new set of legal questions we must answer.

In this article, we will examine two case studies where the **NCSU Libraries** is facilitating the creation of student works through collaboration with faculty, use of evolving spaces and technology, and instruction of emerging tools. Each of these projects raises unique legal issues that require us to reconsider. We will also explore some of the challenges and opportunities surrounding this space, and pose some final food for thought around the role of libraries supporting and facilitating students as active producers, in addition to consumers of knowledge.

### Case Study 1: Immersive Research Presentations

Closer collaboration between librarians and faculty, in conjunction with emerging technologies and collaborative spaces, can enable libraries to shift from their traditional role of information providers supporting the formal classroom experience, to an enhanced role serving as an extension of the classroom teaching and learning process, and lead to librarians and faculty empowering students to produce scholarship. This case study focuses on one such collaboration at **NCSU Libraries** between **Dr. Shea McManus**, an Assistant Professor in the Department of Sociology and Anthropology at **NC State**, and librarians and staff at **NCSU Libraries**.

In the fall of 2015, students from **Shea McManus's** anthropology courses were engaging in field research by embedding themselves in communities throughout the Research Triangle area of North Carolina. While actively interacting with and observing folks in their homes, at their work, and during community events, students were documenting the stories of these communities through photographs, videos, and sound recordings. When it came time for the students to present their research, **McManus** wanted them to continue to feel immersed in the subject matter and communities, much the same way as when they were out in the field conducting research. **Josephine McRobbie**, who was a Libraries Fellow at the time, presented the **D.H. Hill Library** Visualization Studio to **McManus** as space that would provide students with a more immersive and participatory experience. The Visualization Studio is a black box room that contains twelve projectors, three per wall, that can be used to display the contents of a Windows desktop computer 360-degrees across the four walls. The room also has the infrastructure to tie in personal laptops, allowing up to four different users to project on the walls simultaneously.<sup>2</sup> As **McManus** was introduced to the Visualization Studio, she quickly realized that the space would allow her students to more fully engage and interact with each other's research. "The Visualization Studio makes possible a rich presentation of knowledge and a more inter-

active environment for its communication," **McManus** said "I was immediately struck by the creative potential it offered students in my ethnographic research methods course."<sup>3</sup> In order to help students maximize the immersive capabilities of the Visualization Studio, **McRobbie** and **Markus Wust** (Digital Scholarship and Research Librarian) collaborated with **McManus** to introduce her students to the space, and to teach them how to use tools such as Sway, Tiky Toky, and Google Slides.

Fast forward to 2016, when **Mira Waller** (Associate Head of Collections & Research Strategy) became the Libraries' liaison to the department of Sociology and Anthropology, and began partnering with **McManus** to continue

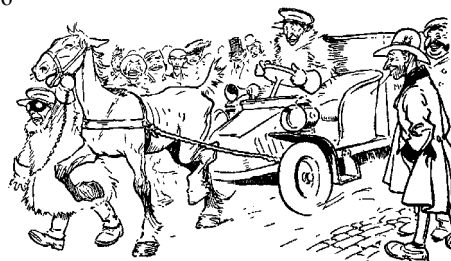
introducing students to the Visualization Studio and providing instruction and support for **McManus's** students in creating multimedia research presentations. Through continued collaboration with **McManus**, **Waller**, **Wust**, and **Shaun Bennett**, a Library Technician, have integrated the Visualization Studio, instruction for presentation and multimedia tools, and traditional instruction for literature searchers into a number of **McManus's** class curricula including: Research Methods, the Intermediate Seminar in International Studies, and Anthropology of the Middle East. As a result, students in these courses are more engaged and have created research presentations that incorporate text, sound, images, and videos in innovative ways. **Dakota Frisby**, a student in **McManus's** seminar class said, "getting to learn how to present on four different walls for a presentation without PowerPoint was a fun learning process. The Viz Studio made me more comfortable in presenting to my peers since they weren't focused on me but on the walls surrounding them. More classes should get to use this room for presentations, because the creativity that it allows the students to have greatly improves the quality of the presentations and the interest level of those watching the presentation."<sup>4</sup> By providing students with the tools to combine traditional and emerging communication mediums, the Libraries and **McManus** are enabling students to build unique works for their portfolios and resumes.

### Case Study 2: Making as Pedagogy<sup>5</sup>

Making can provide a great opportunity for students to actively participate in the learning process as producers rather than just consumers of information. This case study focuses on the **NCSU Libraries's** work with **Susanna Lee**, Associate Professor of History; her Theory and Practice of Digital History class; and the North Carolina Museum of History around the digitization of a set of 18th and 19th century artifacts using 3D scanners from the **NCSU Libraries's** Makerspace program.

In the summer of 2014, **Adam Rogers**, Emerging Technology Services Librarian, and

**Professor Susanna Lee** began conversations with **John Campbell**, Collections Section Chief, and **RaeLana Poteat**, Curator of Political and Social History, at the North Carolina Museum of History to explore how **Lee's** Digital History Fall class could work with the Museum while exploring new technologies for historical research and the application of those technologies to historical artifacts. One key aspect of the joint project would be that students would only have one short period of work at



the museum. The major goals agreed upon by the Museum administrators, **Lee**, and **Rogers** were to investigate and understand a technology with the potential to have a huge impact on museum artifact presentation and preservation; to

teach students about 3D scanning, printing, and related 3D model sharing platforms; to have the **NCSU Libraries** provide all necessary equipment with no additional budget required; and to have some tangible final products — scanned artifacts with their associated stories available in Thingiverse, a site popular for sharing 3D files.

**Lee** and her students had very little preparation before the actual scanning session at the Museum. **Lee** and her students received a tour of the **James B. Hunt Jr. Library**, during which they saw the Makerspace. They also received a quick overview of 3D scanning and printing, and they were required to read about the recent Smithsonian 3D scanning initiative.<sup>6</sup> In preparation for the class working session, **Rogers** took most of the **NCSU Libraries's** 3D scanning equipment to the Museum, and some of the students installed 3D scanning software on their personal devices (e.g., phones, laptops). For their part, the Museum staff gathered an assortment of objects, concentrating on those with intriguing features and stories, as well as artifacts that would provide interesting use cases in 3D scanning. The students worked in groups to scan the items they were interested in, and used scanning stations set up by **Rogers**, who also directed them to the station that was best setup to accommodate their particular artifact's physical properties.

By the end of the session, the student groups had digital scans of their chosen artifacts, and had even begun some post-data cleaning, with additional work to be done later by the students. Afterwards, these students uploaded their digital scans to Thingiverse, wrote research papers that delved into the historical context and importance of their artifacts, and linked the papers to their scan files. A full list of the students' projects is located at <http://susannalee.org/dh/category/3d/>. This project was a wonderful opportunity for students to engage in meaningful and generative work alongside Museum staff, and contribute to a key cultural heritage institution by creating scholarship while exploring technology and history.

*continued on page 22*

### Some Challenges — Both Legal and Cultural

Supporting these immersive research presentations has pushed us to consider both our institutional policies and our instruction on issues from copyright and contract law to questions of liability and terms of service. Our basic policy around ownership of student works is clear: students own the work they make unless they are directed to create as part of employment or they make “exceptional use of university resources.” Although the Libraries has no desire to claim copyright on student projects, questions have been raised about whether our high tech spaces could be considered “exceptional use” under the policy. As we think about archiving these works to tell the story of the Libraries, a license to archive and share may be appealing. Whatever decision we reach, it is important that students understand the policy so they can make informed decisions about how their work is shared.

Students using external sources also raise a host of thorny legal issues. How can we guide students to platforms with terms of service that fit with our mission and their goals as creators? How can we help them understand the consequences of using third-party materials in a visualization project or 3d scanning material that includes copyrighted expression or trademarked content? Students must have the latitude to select the materials, tools, and platforms that support their creativity, but must also be made meaningfully aware of the way that privacy, copyright, contract, and other laws intersect in these spaces. The Libraries must also keep an eye on potential liability when we host works and guide students towards tools and platforms.

In many ways, these legal issues are mirrored by questions about the scholarly qualities of the projects created in these programs, which often could be considered grey literature. As defined at the **Grey Literature Conference**, Luxembourg, 1997, and broadened in New York, 2004, “grey literature” is “information produced on all levels of government, academia, business and industry in electronic and print formats not controlled by commercial publishing i.e., where publishing is not the primary activity of the producing body.”<sup>7</sup> And because there are currently no established and standardized mechanisms for linking to, citing, and even sharing them on a continuous and system-agnostic basis, this work often ends up being ephemeral. And although in the cases above the student works are currently saved in alternative systems (Moodle for **McManus** and Thingiverse for **Lee**), there is no guarantee that the students will be able to access or refer to their work in the future. The very nature of some of the tools used to create these works can present challenges for long-term access and preservation.

Additionally, it is one thing for students to use scholarship created by others in their own work when they are only focused on grades and classroom use; it is another thing when a student might “publish” or use their work to create a portfolio for their future career. Issues around publication, ownership, and licensing are not often thought of in conjunction with classroom projects. Students have also expressed concerns about theft of — or embarrassment because of — their work, and therefore the possibility that they might not want these works discoverable on a long-term basis. Furthermore, some classroom assignments can touch upon culturally sensitive or controversial issues, and we have to be careful to ensure that we provide a safe and secure avenue for students to explore and address them. There is a lack of models, both for libraries and for faculty and students, around how to protect students from any future fallout associated with creating, sharing, and saving these works.

### Some Opportunities

Although there are challenges to supporting students as creators and active participants in the scholarly enterprise, there are also a number of opportunities and benefits in this space. As illustrated by the case studies above, collaborating with faculty to facilitate the creation of student works gives libraries an ideal way to enhance and strengthen relationships with faculty, and provides faculty and librarians with an opportunity to teach students new skills while increasing their engagement in the learning process. These types of assignments, projects, and presentations also give students an opportunity to build a portfolio of unique works. And, they can be an additional way for libraries to add value to the student experience.

Furthermore, sharing student works in public-facing and meaningful ways benefits both the students and libraries. It gives students an opportunity to share their works with a wider audience, beyond their peers. And it enables libraries to highlight how they contribute to and support student engagement and success. Finally, in terms of preservation, by saving these types of work we are also preserving our institutional history and culture. These conversations also ground discussion of copyright, privacy, and similar legal issues in a concrete form, and have been a productive way to introduce these topics to students that may otherwise not have the opportunity or incentive to engage with them.

### Conclusion and Food for Thought

As students shift to become both producers and consumers of scholarship, do libraries have an obligation to provide access and preservation to the unique works they are creating? And if so, how can we address the issues that arise from making this type of ephemera more permanent and findable? Whatever path we select, how can we help students understand the legal issues they face and the consequences of choosing a specific platform with draconian terms of use or borrow images from popular

culture to scan in the Makerspace? While we do not have the answers to these questions, we can leave you with some additional food for thought:

- Do we consider ephemeral works created by students important to the research enterprise and the scholarly communication ecosystem? If so, how should they be captured and preserved?
- Should libraries be the ones responsible for disseminating and preserving student works? What legal rights would they need to do this?
- Should libraries be responsible for the student works they have curated in some way, e.g., showcase events, contests, gallery space in libraries?
- Should libraries help students who are interested in making their works openly available? What instruction would they need to make that decision?
- Should libraries help students who are interested in licensing or patenting their work?
- Should libraries incorporate student works into their collections?
- How can students take their “works” with them when they graduate? 🌱

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