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### **CRIV Website**

[www.aallnet.org/main-menu/Leadership-Governance/committee/activecmtes/criv.html](http://www.aallnet.org/main-menu/Leadership-Governance/committee/activecmtes/criv.html)

### **CRIV Tools**

[www.aallnet.org/main-menu/Advocacy/vendorrelations/CRIV-Tools](http://www.aallnet.org/main-menu/Advocacy/vendorrelations/CRIV-Tools)

### **CRIV Blog**

[crivblog.com](http://crivblog.com)

# The CRIV Sheet

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## Editor's Corner

It is my pleasure to begin serving as the editor of *The CRIV Sheet*. First, I would like to thank the previous editor, David Hollander, for all of his hard work. He will be a tough act to follow! Second, I would like to thank the new assistant editor, Alexa Robertson. I look forward to working with her to ensure that *The CRIV Sheet* will continue to cover important, informative, and interesting vendor relations-themed topics that will be of use to AALL members.

In this issue of *The CRIV Sheet* we offer several summaries of AALL Annual Meeting programs pertaining to vendor relations. If you missed the Annual Meeting or had scheduling conflicts during the various programs, you may enjoy reading these recaps.

At the end of this issue you will find a call for nominations for the 2015 New Product Award. The 2014 winner was the *HeinOnline/Fastcase Integration*. I hope you will consider submitting a nomination.

If you would like to contribute to *The CRIV Sheet* or just share your ideas on improving vendor relations, please contact us. Your comments, letters, suggestions, and submissions are always appreciated. We love to hear from librarians in a variety of settings. Please email [sraffel@crowell.com](mailto:sraffel@crowell.com) or [arobertson@pli.edu](mailto:arobertson@pli.edu). Our editorial policies are available at [www.aallnet.org/main-menu/Advocacy/vendorrelations/CRIV-Sheet/policy-criv.html](http://www.aallnet.org/main-menu/Advocacy/vendorrelations/CRIV-Sheet/policy-criv.html).

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Liz Reppe Minnesota State Law Library

## From the Chair

Welcome to the first issue of *The CRIV Sheet* for 2014-2015. I am looking forward to a productive year with CRIV. First, I would like to thank Cynthia Myers for her excellent work as CRIV chair last term. I appreciate her guidance and advice as I prepared to take over as chair. CRIV's vice-chair this year is Jacob Sayward, who will take over as chair next summer.

I thought it might be helpful to review the purpose of this committee: "The Committee shall facilitate communications between information vendors and the members of the Association by monitoring complaints and providing constructive suggestions to vendors of information in any format. The Committee shall educate members on constructive ways to communicate with information vendors."

CRIV exists to assist members, so I encourage questions, feedback, and ideas from you. These can come in the form of an article for *The CRIV Sheet*, a suggestion for a program, or a request for assistance when working with a vendor.

CRIV is an active committee. Last year, in addition to providing informative articles in *Spectrum*, the committee hosted the CRIV Blog, selected a New Product Award winner, and sponsored two educational events at the AALL Annual Meeting. You can read about those events and other vendor-related programs in this issue.

There are a couple of AALL resources I'd like to point out as great sources of information. On our CRIV Tools page ([www.aallnet.org/main-menu/Advocacy/vendorrelations/CRIV-Tools](http://www.aallnet.org/main-menu/Advocacy/vendorrelations/CRIV-Tools)), you will find the *Guide to Fair Business Practices for Legal Publishers* and the *Procurement Toolkit and Code of Best Practices for Licensing Electronic Resources*. These, as well as several other guides listed, can be of great use when working with vendors. For more information about CRIV, please visit [www.aallnet.org/main-menu/Advocacy/vendorrelations](http://www.aallnet.org/main-menu/Advocacy/vendorrelations).

## CRIV Vendor Roundtable

The Vendor Roundtable presented by the CRIV Committee was held at the AALL Annual Meeting in San Antonio on July 14. All of the major vendors participated with at least one representative, with some having up to three in attendance. This included field and corporate employees from William S. Hein & Co., Inc., Wolters Kluwer, LexisNexis, Bloomberg BNA, Practising Law Institute (PLI), Thomson Reuters, Fastcase, and West Academic. An audience poll revealed that a majority of attendees were from the academic segment. There were a few government librarians, and the remaining third were from law firms.

### Customer Feedback

The first discussion and most lengthy topic was on customer feedback and how the vendors incorporate that information. Generally, all of the vendors said that they value customer feedback. Wolters Kluwer's executive said it is "highly important." West Academic Vice President Chris Parton and the library relations manager from LexisNexis stated that they receive feedback in the law schools every day.

Several vendors described how they solicit feedback and customer comments in ways such as through their customer service departments, focus groups, advisory boards, and usability studies. Both Hein and Bloomberg BNA representatives spoke of creating and instilling a "culture of listening." Alexa Robertson, PLI's director of library relations, commented about how her company truly values and appreciates the feedback.

Heidi Bloedow, vice president of customer experience operations at Thomson Reuters, gave an example of the company's Library Maintenance Agreement (LMA) and how they "deconstructed the process." This audit was conducted at three levels and took more than six months. It was designed to make the operation and servicing of these contracts more streamlined and user-friendly. This project was initiated by the feedback Thomson received from law librarians, Vice President of Marketing Brian Knutson added.

Other vendors also cited examples of customer and librarian involvement in product development,

especially in the e-book titles. Retired librarian and Westlaw KeyCite developer Dan Dabney also cited the value of librarians in the initial roll-out and reception of that product. Likewise, Hein Executive Vice President Dick Spinelli remarked that librarian feedback was critical in 12 to 15 new enhancements to their products.

Social media for feedback is also catching on, the panel noted. Wolters Kluwer representatives stated that they are devoting more resources into this channel and that they enjoy the immediacy and trends that can be gathered. Other vendors said likewise. Blogging and YouTube were the most mentioned.

### Vendor Licensing

Another discussion topic was brought up by the director of the Sacramento Public Law Library. She explained how vendor licensing constraints have caused more work and less-satisfied patrons. The content that was really needed from an e-book was not a part of the library's agreement. Officials from Lexis assured her that the arrangement would be modified to better serve the people in the public law library environment. Other librarians in the audience echoed concerns with licensing models that really don't fit their environments. If the vendors are worried about protecting their intellectual property, one Philadelphia law librarian stated, they need not be, as librarians are very capable and have been continually protecting and enforcing copyrights in their libraries. "It's part of the job," she said.

As a corollary, a librarian from a California law school noted that the model of basing product pricing on total enrollment versus first-year students is inequitable, since it's the 1Ls who use these services regularly. In addition, budget cuts call for greater creativity and flexibility, said another audience member.

In all, the vendors showed their appreciation for customer and librarian feedback. Librarians, in turn, voiced some of their concerns and generally felt that they were heard. The vendors urged librarians to keep the feedback coming.

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# San Antonio 2014: Annual Meeting Educational Program Summaries

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## Program F4: Just in Time: Demand-Driven Acquisitions for E-Books

Debora Person

University of Wyoming

This program seated a panel of academic law librarians whose institutions had each initiated patron-selected e-book purchases. The moderator posed questions for each member of the panel to address, providing a comparative review of the different decisions that the libraries made, the procedures they used to bring their systems live, and the ongoing evaluation of those services. The panel members were Gilda Chiu of Brooklyn Law School Library, Edward Hart of University of North Texas at Dallas, and Jacob Sayward, Fordham University Law Library. Janet Sinder of Brooklyn Law School Library moderated the discussion.

Demand-driven acquisitions programs allow libraries to load bibliographic records for e-books into the library system that match a selection profile. A purchase of these materials is not triggered until the book use has met conditions established by the institution upon the implementation of the program. Most contracts allow a certain number of short-term visits before a purchase is triggered. For instance, a given title might be opened two times for a review of the table of contents or a five-minute perusal. These may count as short-term uses. The third use might trigger the purchase. The cost of short-term loans, loan periods, and lending models are customizable by the local institutions. In this manner, the library is only paying for items that have been used, and access is immediate.

As ongoing maintenance, librarians have to address library system policies, such as what to do with records for older editions when a new edition is released, when and whether to deactivate unused titles, and how to conduct a database cleanup if the publisher pulls the title from the platform.

Some very different considerations drove the selections of these programs among the panelists' libraries. Consortia agreements, access improvements, and budgetary considerations played roles in the decision to implement these services.

### Mediated Service Option

Those at Brooklyn Law School Library chose to run their DDA program through YBP, which allowed them to manage different aggregators such as EBL and EBSCO through one entity. It also meant that they had to make a number of decisions up front.

Selection criteria were set up through a library profile that included ranking preferences among aggregators in instances of duplication, establishing lending models for single-user or multi-user options, and defining short-term loan criteria, such as duration of the loan and at what point a purchase is triggered.

They chose to replicate their print profile for all K-class subjects, excluding casebooks, translations, and titles over \$250, and they selected a seven-day loan period. Every week they upload customized YBP records for new titles into their library system.

Access depends on the aggregator. The EBSCO platform use is handled seamlessly through the proxy server on and off campus. For EBL titles, a unique login is required. Patrons must establish an EBL password, and from then on this is their access point. Patrons off-site sign on to the university's proxy server and then use their EBL login information to access any e-books from EBL in the library's catalog.

Brooklyn's goal was to see how patrons would react to e-book formats. This service has allowed them to expand their collection in the areas of international titles and peripheral subjects. They also found that they saved a significant amount of money. Their monograph expenses went from \$111,613 in print the year before implementation to \$53,402 in print and \$3,722 in e-book costs that include short-term loans and purchases. They have not collected formal survey results, but user feedback has generally been positive.

### Publisher Direct Option

Fordham University Law Library runs its program directly through the aggregator. They chose EBL over EBSCO and EBRARY. Because of this, they were not required to lock in decisions on some of the system parameters. Their loan durations vary by user type, including one day, seven days, 14 days, and 21 days.

Fordham has opened the program to all K-class subjects. They are not concerned about duplicating print titles within the collection as they view the optional format to be valuable to their users. They add MARC records from EBL on a regularly scheduled basis and suppress and deduplicate EBL titles through the DDA program if they duplicate e-book titles currently in the collection.

Because EBL requires patrons to create and use an EBL username and password, their patrons may also experience a double login requirement. Offsite patrons must first authenticate into the law library proxy server and then authenticate with their EBL username/password on EBL's login page. Onsite patrons simply use their EBL login. The only access point to any EBL title is through the law library's catalog. Fordham does not provide access to EBL's search platform.

They made the decision not to reduce their print purchases. Still, they realized some cost savings after implementation of the program, though it cannot be directly tied to this service. They have found, however, that use of e-books in their library is expanding. It has proven to be a good option when the print format is unavailable. Responses have been mixed, though usage statistics are fairly high.

### **Shared Collection Option**

The campus libraries at the University of Florida and Florida State University contracted with Coutts to provide shared DDA services to their patrons. This option has less flexibility as the interests of all libraries must be attended, but it has strong advantages in terms of pricing, where they were able to negotiate their standard Coutts discount. The different libraries entered the program with different goals in mind. Some wanted to offer access to titles that they did not intend to purchase in print in order to expand the collection. Consequently, University of Florida Law Library excluded from the DDA university press books assigned K, KF, and KZ classifications that were already covered by their approval plans. Other libraries entered the program with the goal of building their e-book collections and wanted the widest possible DDA selection criteria.

The DDA resources were provided to users based on IP access. The first two visits beyond the table of contents through the browser platform were free to the libraries. The third visit at this level triggered the purchase of the item. Once purchased, the e-book was not available for checkout by another patron, and the item was ready for downloading to an e-reader for its 28-day loan period.

These libraries share a combined catalog, and all use a single bib record. The uploading of records was centralized within the system. Libraries applied quality control after the fact. Over time, maintaining purchase records became an issue. This shared program has fallen apart as publishers did not find the discount pricing and the three-clicks trigger to be lucrative.

Patron acceptance has been mixed. The libraries, however, identified an additional benefit. Those titles that were looked at once or twice but did not trigger purchases can be considered a savings of interlibrary loan costs.

### **Conclusion**

The panel members were asked what changes they might consider or what continuing issues they have identified. Their responses to this question and additional questions from the audience are helpful to libraries considering a DDA program:

- Aggregators renegotiate pricing with publishers. This can cause libraries to have to adjust their profiles due to changes in costs.
- The short-term loan limit may be one of those criteria for reconsideration as publisher prices change. Some prices have jumped more than 20 percent.
- These resources need to be marketed by including them in new books lists, on homepages, and in faculty notifications.
- Because the e-book resides on the vendor platform, librarians expressed concern that they could lose access to purchased titles if the aggregator were to go out of business. A YBP representative indicated that their contracts provide that purchased content will be placed on a different server in that event. Librarians should watch for this language when setting up their services.
- Consider that these programs are about access options, not necessarily ownership. Approach the decision to initiate a demand-driven acquisitions service in the same manner as you approach the purchase of a database.

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## Hot Topic Program: Deans and Directors Roundtable: Reinventing Law School Libraries for the Digital Age

**Andrew Lissenden**

Practising Law Institute

This panel of one law school dean and several law school library deans and law school library directors presented their takes on the topic of reinventing libraries for the digital age that could vary notably between, and even within, these communities. Broadly, the deans' visions were informed by the realities of constrained budgets, while the directors were pragmatic in the face of change but felt that what is good for libraries is usually best for students as well.

Mike Chiorazzi, associate dean for information resources at the University of Arizona College of Law, said that the physical spaces that libraries occupy are increasingly eyed by other space-hungry school departments. He feels that there is room to compromise since libraries are evolving to be defined more by the services they provide than the spaces they occupy. He also feels that the nature of many modern library services is such that they can be delivered from remote locations, perhaps opening the possibility of leasing space from and providing services to law firms.

Emily Janoski-Haehlen, associate dean for law library services at Valparaiso University, stressed her desire to hire multi-talented staff members that can break free of traditional silos and increase the value of the library to the university. She specifically cited technical services staff, saying that she aims to have them perform more of an IT function than is the traditional norm.

Eric Young, assistant dean, Law Library & Technology Center, Nova Southeastern University, stated a desire for 100 percent digital library collections at his school. He acknowledged that this could mean fewer librarians on staff, but he said he hopes to make up for this with a staff comprised entirely of dual MLS/JD degree holders, regardless of their function. He acknowledged that all-digital is as yet an unusual goal and relayed a story of a Lexis representative assuming that he was wishing for a digital collection that exactly mirrored (rather than replaced) his paper-based holdings. Young suggested that elevated e-book costs could be more than covered by eliminating the processing required by paper-based collections. He also stated that digital collections are much more conducive to serving the needs of alums.

Mary Ann Neary, associate director, Boston College Law Library, stressed that her library space is very malleable and very much able to accommodate the integration of library and university spaces owing to its having been built within the last decade. She said that her library now provides more legal research training than ever before, for which purpose it has been reconfigured. She said that new demands on her library space have also been facilitated by ever-more digital collections, including wholly digital holdings from some publishers, and she suggested that even rare book collections are being digitized and moved offsite. As others had, Neary mentioned a trend toward reconceived roles for a number of library departments, notably technical services.

Barbara Bintliff, director, Tarlton Law Library, University of Texas at Austin, cited ROI methodology as a powerful means of demonstrating a library's value to an institution. She believes it to be a more powerful method than the more traditional statistics citing visits, checkouts, acquisitions, etc., which tend to have to be re-presented every few years, as though for the first time. She acknowledged that an ROI study could be daunting for a librarian, but she said that presenting the library's value as a "\$4.42 return on the dollar" is a powerful means of justifying and even expanding budget dollars coveted by many.

Finally, Vincent Rougeau, dean, Boston College Law School, said that though he regards library directors as strategic partners, he tells them that everything must change, because he is in turn hearing the same thing from his own superiors. He attributed this need to sweeping recent changes in the economics of higher education. He said that every couple of years he is told that he must defend his large library budget or lose it, and he stated that if librarians would understand that he was under this pressure, they could plan ahead, innovate, and help him to justify their budget during the next round of negotiations. Rougeau questioned whether traditional brick and mortar library spaces continue to serve a crucial function for universities and said that traditional space must be reimagined to serve a role that remains unambiguously crucial to the functioning of their institutions.

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## Program H3: The Bookless Law Library: Potential Reality or Flight of Fancy?

Cynthia Myers

George Mason University

**Speakers:** Laura Cole, Special Projects Manager, and Ashley Eklof, Head Librarian, BiblioTech; Robert Oaks, Chief Library and Records Officer, Latham & Watkins

**Coordinator and Moderator:** Liz Reppe, State Law Librarian, Minnesota State Law Library

What will the law library of the future look like? Undoubtedly, it will be in a different form than it exists today. This program allowed a glimpse into the future focusing on a new public library and a reimagined law firm library.

Laura Cole and Ashley Eklof of BiblioTech, the first bookless public library, which is located in San Antonio, presented information on the creation, current status, and future of their library. BiblioTech was created with the idea of providing the citizens of Bexar County with access to technology with no physical, financial, or geographical barriers to access. The library was the brainchild of Judge Nelson Wolff, who believed that there is no reason that in 2014 a library cannot be all-digital. The library opened its doors in 2013 with 4,800 square feet of space, which includes a digital reading room, children's area, lounge, and café. There are 48 desktop computers and tablets available for internal use as well as 10 laptops. To support this endeavor, there are 17 staff members, all of them tech-savvy and always available to spend more time with people, not resources.

BiblioTech has a wide patron base as well as a wide virtual space. The primary users are K-12 students who come in after school, seniors, Spanish and bilingual speakers, low-income families, adult probationers, and people with visual impairments. BiblioTech's virtual users are service members, both at home and abroad; educators; and incarcerated parents. A variety of programs for all age groups is provided, all with a focus on technology teaching. They estimate that 75 percent of their patrons never walk into their library.

In its first year of operation, BiblioTech had more than 27,000 registrants, 80,000 visitors, device circulation of more than 6,000, and 154 community outreach events attracting more than 22,000 people.

Future plans call for extending their reach. BiblioTech believes in an inverted service model, taking their services outside of the library. They are donating 1,000 e-readers to county schools. They have opened

a satellite branch in the central jury room of the Bexar County Courthouse, which has two staff members who primarily circulate e-readers, as well as a branch in the San Antonio Brooke Army Medical Center. More information on this truly new library model can be found at [www.bexarbibliotech.org](http://www.bexarbibliotech.org).

Turning to another model, Bob Oaks of Latham & Watkins explained the firm's conversion to an "almost" bookless law library in its New York office. The before and after photographs were telling—in 2013, the centerpiece was books; in 2014, it was people.

How was this transformation accomplished? While the library had been downsizing for some time, it became imperative to use the available space wisely. In order to make sure there was buy-in to the new plan, a committee of librarians, attorneys, and business people was formed. An email was sent to all of the attorneys asking what they wanted to keep, by title. Practice group chairs were also consulted.

Now, a digital screen greets library users. A six-seat conference room with technology was designed and is well used. A "genius bar" (like Apple's) was constructed but admittedly has not attracted the number of people envisioned. A comfy reading area was also put in. The library space dropped by 60 percent, but the space available is well used.

Staff loves the new space. The only changes in staffing due to the redesign have been to centralize technical services activities to the Washington, D.C., office.

Oaks summed up the two main lessons from the Latham & Watkins redesign: (1) a library is not about place, but service, and (2) the service model is not waiting for your users to come in, but instead depends on you reaching out to them. To that end, every librarian at the firm has a personal outreach plan. In 2013, client billable hours in the firm increased by 35 percent.

There were a few audience questions, most aimed at understanding how the firm got buy-in from all of the principals involved in the firm library transformation. While the presentations may have focused on two very different types of libraries, the commonalities were clear: digital libraries are here to stay, and, in order to best serve library users, librarians must reach out to make their services known.

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## Program G2: Emerging Issues in Copyright: What You Need to Know

Todd Melnick

Fordham Law School Library

**Coordinator and Speaker: D.R. Jones**, Associate Dean for Information Resources, Law Library Director, and Assistant Professor of Law, University of Memphis School of Law

**Speakers: Meg Kribble**, Research Librarian and Outreach Coordinator, Harvard Law School Library; **Kevin Miles**, Ph.D. Librarian, Fulbright & Jaworski, LP

Copyright law affects almost every aspect of law librarianship. The purpose of this session was to bring attendees up to date on a number of important developments in copyright law and to present some online tools for keeping up with this constantly developing field.

Following an introduction by moderator D.R. Jones, Meg Kribble began the substantive part of the program by discussing developments in the first sale doctrine, which protects the right of the purchaser of a print copy of a work to resell, lend, rent, or give away that copy without the permission of the copyright holder. This doctrine is fundamental to the traditional business model of lending libraries. While the first sale doctrine seems to be secure at least with regard to print materials and was recently found in *Kirtsaeng v. John Wiley & Sons, Inc.*, 133 S. Ct. 1351 (2013) to cover books manufactured outside the U.S., at least one publisher tested the boundaries of the doctrine this year. In May, Aspen Law introduced its Connected Casebook program, where purchasers of a printed casebook would be given permanent access to an electronic version of the text if they agreed to return their print copy to the publisher at the end of the course. This agreement would effectively eliminate the purchaser's first sale rights in the purchased book. An Internet hue and cry was raised, and Aspen altered the Connected Casebook program so that students would have the option of buying or renting Connected Casebooks. But Aspen's revised policy vindicates the first sale doctrine only if the cost of purchasing the case book as opposed to renting it remains reasonable. If the cost of purchasing the book, and therefore retaining the right to resell it, is too high, the first sale doctrine's protection of the free market in used casebooks will be endangered.

Another copyright doctrine that is important to librarians, fair use, received significant judicial attention in the past year. Fair use, codified at 17 U.S.C. §107, allows a work protected by copyright

to be used without the permission of the copyright holder under certain circumstances. Those circumstances are evaluated according to a four-prong test. Each of the factors is weighed to determine whether a particular use constitutes a fair use. Three recent cases, the Google Books case, the Hathi Trust case, and the Georgia State University e-reserves case, were decided on fair use grounds and have been read as very good news for libraries.

In *Authors Guild, Inc. v. Google Inc.*, 954 F. Supp. 2d 282 (S.D.N.Y. 2013), Judge Chin found that Google's efforts to digitize books and make their contents available on the web was, in fact, a fair use under the Copyright Act. While fair use analysis requires that all four of the fair use factors be weighed independently, that analysis often turns on the first factor, the purpose and character of the use. Courts are more likely to find fair use if the use of the copyrighted work is found to be "transformative"; that is, the use is not merely duplicative of the original work but changes it into something genuinely new. Judge Chin found that Google's use of scanning of books protected by copyright is transformative because their purpose is not merely to copy them but to turn them into searchable data. The judge also found that in this case the fourth factor, the effect of the use on the potential market for the copyrighted work, weighed in favor of fair use since that effect would be positive as Google users discover and purchase books that would have otherwise been buried in library stacks and would have been inaccessible to most potential readers. The plaintiff's appeal of Judge Chin's decision is pending in the 2nd Circuit. Additional details about this case can be found in the AALL Issue Brief on the Google Books case available at [www.aallnet.org/Documents/Government-Relations/Issue-Briefs-and-Reports/2010/ib062010.pdf](http://www.aallnet.org/Documents/Government-Relations/Issue-Briefs-and-Reports/2010/ib062010.pdf).

A second victory for the fair use doctrine came in *Authors Guild, Inc. v. HathiTrust*, 755 F. 3d 87 (2nd Cir. 2014), where the court found that digitization of copyrighted works to permit full-text searching is fair use, as is digitization of copyrighted works to make those works accessible to print-disabled readers.

Concluding her portion of the presentation, Kribble suggested that both the Google Books and the Hathi Trust cases are very good news for libraries, allowing them greater latitude to make use of copyrighted materials.

Next, program moderator D.R. Jones spoke about the third recent fair use victory, the Georgia State University e-reserves case, *Cambridge University Press, et. al. v. Becker*, 863 F. Supp. 2d 1190 (N.D. GA, 2012). In this case, a number of publishers sued Georgia State University for violating copyright law by posting excerpts of copyrighted materials without permission in the Georgia State University Library's e-reserve system. The court found mostly for the defendant and identified only five works out of more than 100 listed in the complaint that were likely to be infringing. Looking at the four factors, the court found that the nonprofit educational purpose of the use (factor one) favored a finding of fair use, but the court did not find the use to be transformative. The judge focused primarily on the third and fourth fair use factors. On the third factor, the amount and substantiality of the portion used in relation to the work as a whole, the judge found that as long as the excerpt placed on e-reserve is narrowly tailored to the purposes of a particular course and as long as no more than 10 percent of the whole work is posted, fair use is indicated. As for the fourth factor, the effect of the use on the potential market for or value of the work, the judge found that the effect on a potential market for the complete copyrighted work of placing an excerpt on reserve is negligible. Further, the potential market for licenses to use the excerpts was not damaged because no mechanism exists by which the defendant could purchase an easily accessible, reasonably priced license for digital copies of excerpts at issue. This case is currently on appeal.

In other recent fair use developments, in February 2013, the Southern District of New York granted summary judgment for the defendants in a suit brought by lawyers who, in the course of litigation, had submitted legal briefs that later appeared in litigation-related databases in Westlaw and Lexis (*White v. West Publishing*, 12 Civ. 1340 [JSR] [S.D.N.Y. 2013]). The judge said that the use of these documents was transformative since the databases used them as part of an interactive research tool and not for their original purpose—the furtherance of litigation. The court also found no effect on the market for the copyrighted materials as there is no market for already-filed briefs.

Finally, in several recent cases, publishers sued lawyers for copyright infringement for including copyrighted material, namely scholarly articles, in patent applications. In two of these cases, *American Institute of Physics v. Schwegman Lundberg & Woessner* (D. Minn) and *American Institute of Physics*

*v. Winstead* (N.D. Texas), district courts found for the defendants on fair use grounds. Appeals in both cases were dismissed. Both of these courts looked primarily at the first and fourth fair use factors. They found that the use of scholarly articles as evidence in patent litigation is transformative because it is very different from the purpose of the original work, i.e., scientific or technical scholarship. The courts also found that the copying did not negatively affect the market for the original articles. The plaintiff argued that it lost licensing revenue because the defendants used the materials without seeking licenses, but the judges did not find this reasoning determinative.

Next, the presentation turned to legislative highlights. Kevin Miles spoke about seven bills before Congress in the first half of 2014. Of particular interest are the *Satellite Television Access Reauthorization Act of 2014* (S. 2454), which would extend the statutory license under which satellite carriers retransmit television broadcast stations to viewers who cannot receive over-the-air signals, and the *Respecting Senior Performers as Essential Cultural Treasures Act* (H.R. 4772), which would require Internet, cable, and satellite radio providers to pay royalties for sound recordings made before February 15, 1972. None of the copyright-related bills currently before Congress have gone beyond being read and sent to committee. Miles also discussed a number of legislative committee hearings and administrative roundtables that focused on copyright issues this year.

Finally, Jones returned with a list of blogs and websites that librarians can consult to keep abreast of current developments in copyright. A number of the suggested sites are listed here:

AALL Copyright Committee Blog:  
[bit.ly/aallcopyrightblog](http://bit.ly/aallcopyrightblog)

AALL Copyright Committee Twitter:  
[twitter.com/aallcopyright](https://twitter.com/aallcopyright)

AALL Washington Blawg: [aallwash.wordpress.com](http://aallwash.wordpress.com)

ALA District Dispatch copyright category:  
[www.districtdispatch.org/category/copyright](http://www.districtdispatch.org/category/copyright)

ARL Policy Notes: [policynotes.arl.org](http://policynotes.arl.org)

Copyright Alliance:  
[https://copyrightalliance.org/in\\_focus](https://copyrightalliance.org/in_focus)

Electric Frontier Foundation: <https://www.eff.org>

Kevin Smith:  
<https://blogs.library.duke.edu/scholcomm>

Rebecca Tushnet's 43(B)log: [tushnet.blogspot.com](http://tushnet.blogspot.com)

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# New Product Award Call for Nominations

Have you discovered any great new library products this past year? If so, let us know! It is time to nominate these products for AALL's 2015 New Product Award.

The New Product Award honors a new and innovative commercial legal information product that enhances or improves existing law library services and/or procedures. New products may include, but are not limited to, printed material, computer hardware and/or software, or other products or devices that aid or improve access to legal information, the legal research process, or procedures for technical processing of library materials. Any product that has been reintroduced in a new format or with substantial changes is also eligible. A new product is one that has been in the library-related marketplace for two years or less.

All AALL members are encouraged to think about the exciting new information products being used in their libraries and to send us their nominations for this award. Interested vendors may also self-nominate their new products. Recipients of the New Product Award need not hold membership in AALL. Nominations can be sent by mail to the address to the right or via email.

## **To Submit a Nomination for the 2015 Award**

Nomination forms can be found on the AALL Vendor Relations website (under the Advocacy tab on AALLNET's homepage) or at [www.aallnet.org/Documents/Awards/newproductform.pdf](http://www.aallnet.org/Documents/Awards/newproductform.pdf). The deadline for receipt of submissions is February 1, 2015.

## **Librarian Nominations**

If you are a librarian nominating a product, please give as much information about the product as possible. The New Product Awards Subcommittee will contact the publisher of the product for any further information required.

## **Vendor/Publisher Nominations**

If you are a vendor or publisher nominating a hardcopy product, please submit the form along with a sample product, if available. If you are nominating a web-based or online product, please submit the form with all necessary contact information, including URL(s) and temporary login and password information.

For hardcopy products, brochures, and/or any other materials, we recommend that you send five copies each for the New Product Award Subcommittee and the AALL Awards Committee.

Submit completed forms and documents by February 1 to:

Jacob Sayward  
The Maloney Library  
Fordham University School of Law  
150 W. 62nd Street  
New York, NY 10023  
Tel. 212/930-8882  
[sayward@law.fordham.edu](mailto:sayward@law.fordham.edu)

# Request for Assistance: Committee on Relations with Information Vendors

*Note: Prior to filing a request for assistance, individuals are expected to have made a reasonable attempt to resolve the issue at hand. To avoid duplication of effort, please provide a complete account of your efforts to communicate with the vendor. Copies of notes from conversations with the vendor are helpful.*

Date: \_\_\_\_\_

Name: \_\_\_\_\_

Library: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

Telephone: \_\_\_\_\_

Fax: \_\_\_\_\_

Email: \_\_\_\_\_

Vendor: \_\_\_\_\_

Nature of problem: \_\_\_\_\_

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Please send this form and supporting documentation to:

Liz Reppe

State Law Librarian

Minnesota State Law Library

Room G 25, MN Judicial Center

25 Rev. Dr. Martin Luther King Jr. Blvd.

St. Paul, MN 55155

651/297-2089

[liz.reppe@courts.state.mn.us](mailto:liz.reppe@courts.state.mn.us)

You may also complete this form online at:

[www.aallnet.org/main-menu/Advocacy/vendorrelations/request-assistance.html](http://www.aallnet.org/main-menu/Advocacy/vendorrelations/request-assistance.html)

