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Welcome to a new volume of The CRIV Sheet. I am grateful to Amy Eaton, senior librarian at Perkins Coie LLP, for her direction during my year as assistant editor. I am also grateful to Joe Thomas, head of technical services at the University of Notre Dame Kresge Law Library, who has graciously accepted the role as assistant editor this year. Together, we hope to continue the tradition of providing a newsletter that furthers the charge of the Committee on Relations with Information Vendors (CRIV).

Our first issue opens with a message from returning chair, Tracy Thompson. Ms. Thompson introduces the members of the CRIV and changes that have been made to the CRIV’s charge, as well as changes to the committee’s structure.

We begin with our recent site visit report. The chair of the CRIV Site Visit Subcommittee, JoAnn Hounshell, and her subcommittee members, Amy Eaton, Joseph Hinger, and Tracy Thompson, spent a day at Oxford University Press, Inc., in Cary, North Carolina. Scott Childs, deputy director of the University of North Carolina at Chapel Hill Law Library, also attended as a representative of the Southeastern Chapter of the American Association of Law Libraries. The lengthy report provides responses to many concerns submitted by AALL members. I’m sure you will find the length appropriate given the amount of information covered.

Next, we bring you the 2008 AALL Annual Meeting educational program summaries. Our first summary, written by Dina Dreifuerst, budget and acquisitions librarian at Bracewell & Giuliani, LLP, covers B-3: “Evolving Fair Use Policies in the Private Law Firm.” Next, Rob Myers, manager of serials and collections access/reference librarian at Case Western School of Law Library, provides an insightful review of C-4: “Official but Not Authentic: The Future of Electronic Legal Information.” CRIV Vice Chair Amy Eaton reports on F-3: “Acquiring Content in a Global Marketplace: Exploring Vendor Relations Across Borders.” Program J-6: “Tales from the Dark Side, or If I Knew Then What I Know Now!” as summarized by Alicia Brillon, reference librarian at the University of Colorado Wise Law Library, gives us some practical advice on improving library-vendor relations. Finally, a new committee member, Michelle Cosby, reference librarian at the University of Kentucky College of Law, reviews K-1: “CRIV Tools: Useful Resources for Working with Information Vendors.”

This issue concludes with the new form to nominate a product for next year’s New Product Award. Please keep this award in mind, and when you see a new product that deserves recognition, fill it out and send in your nomination.

Thank you to all of our contributing authors for their hard work; we strive to bring you the best possible content. 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. Please e-mail smarshall@law.txwes.edu or jthomas@nd.edu.

Stephanie Marshall
Texas Wesleyan University School of Law, Ft. Worth

Editor’s Corner

Welcome to the first CRIV Sheet of 2008-2009. I am honored to have been asked by James Duggan to serve as chair of the Committee on Relations with Information Vendors (CRIV) for a second year. The changes to the terms of service, composition, and charge for our committee that resulted from the work of the Special Committee on AALL Committee Structure present us with a year of transition. Amy Eaton, past editor of The CRIV Sheet, has graciously agreed to extend her term on the CRIV and will serve as vice chair for 2008-2009 and chair for 2009-2010. Ms. Eaton will have served four years when she completes her service in 2010. I am grateful for her continued commitment and dedication to the CRIV.

Stephanie Marshall, having served as assistant editor under Ms. Eaton, will serve as The CRIV Sheet editor for 2008-2009, beginning with this issue. Ms. Marshall will be ably assisted this year by Joe Thomas, one of the incoming CRIV members. The other members of the roster are Alicia Brillon (2007-2009), Michelle Cosby (2008-2011), Dina Dreifuerst (2007-2009), Shaun Esposito (2008-2011), Joseph Hinger (2007-2009), Robert Myers (2007-2009), and Lucy Ann Rieger (2007-2009). I’m looking forward to working with these dedicated committee members during the course of the year.

The CRIV sponsored several programs at the 2008 AALL Annual Meeting in Portland. Reviews of those and other relevant programs are included in this issue of The CRIV Sheet. Thanks to all of the authors who submitted reports. The CRIV Education Subcommittee (Michelle Cosby, Dina Dreifuerst, Joe Hinger, and Lucy Ann

Tracy L. Thompson

From the Chair

Welcome to the first CRIV Sheet of 2008-2009. I am honored to have been asked by James Duggan to serve as chair of the Committee on Relations with Information Vendors (CRIV) for a second year. The changes to the terms of service, composition, and charge for our committee that resulted from the work of the Special Committee on AALL Committee Structure present us with a year of transition. Amy Eaton, past editor of The CRIV Sheet, has graciously agreed to extend her term on the CRIV and will serve as vice chair for 2008-2009 and chair for 2009-2010. Ms. Eaton will have served four years when she completes her service in 2010. I am grateful for her continued commitment and dedication to the CRIV.

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The CRIV sponsored several programs at the 2008 AALL Annual Meeting in Portland. Reviews of those and other relevant programs are included in this issue of The CRIV Sheet. Thanks to all of the authors who submitted reports. The CRIV Education Subcommittee (Michelle Cosby, Dina Dreifuerst, Joe Hinger, and Lucy Ann
Rieger) has been in high gear. We submitted five strong program proposals for the 2009 AALL Annual Meeting, including one the CRIV hopes to co-sponsor with the State, Court, and County Law Libraries Special Interest Section. The CRIV also hopes to host a continuing professional education Webinar in early 2009.

The CRIV’s charge for 2008-2009 is as follows:

The committee shall foster positive, constructive, and open communication between information vendors and the membership of AALL in matters relating to provision of information in any format. The committee shall support ongoing AALL educational initiatives and provide continuing educational opportunities for both AALL members and information vendors. The committee shall serve as a forum and resource to provide constructive suggestions to vendors. The committee shall foster a cooperative working relationship between librarians and information vendors. The committee will select one (1) or more recipients every year for the New Product Award, or no recipient if it deems none of the nominees sufficiently qualified, and will submit the winning recipient’s name(s) to the Awards Committee. The committee represents the interests of all AALL members, and neither it nor its members will represent or advocate for the benefit of only one publisher or information vendor when acting in their capacity as committee members.

The new charge represents a shift in thinking about the vendor/law library relationship. The Association recognizes that the development of strong relationships between these two constituencies requires open and honest communication and cooperation in both directions. The CRIV’s charge is to assist in maintaining open lines of communication. One of the ways we hope to meet that goal is through the Vendor Roundtable at the AALL Annual Meeting. This session, formerly sponsored by the Academic Law Libraries Special Interest Section, has been assigned to the CRIV beginning with the 2008 meeting. We look forward to making some changes to this session to make it more valuable for the entire AALL membership. If you have any ideas for improving the Vendor Roundtable, please contact any CRIV member.

Introduction

At the request of the AALL Executive Board, the CRIV developed a statement of purpose for all site visits (www.aallnet.org/committee/criv_sitevisit.asp). This statement reflects the CRIV charge and the AALL Executive Board’s belief that vendor relations are a matter of importance to the membership.

Discussions with Oxford University Press, Inc. (OUP) for a CRIV site visit began during the 2007 AALL Annual Meeting. OUP suggested that the site visit take place at its Cary, North Carolina, facilities, which house their operations, distribution, and customer service offices for the United States.

Arrangements were made for the CRIV Site Visit Subcommittee to meet with OUP executives and staff in May 2008, and Tracy Thompson, CRIV chair, sent an announcement to various law librarian discussion forums to announce the planned site visit. Questions and comments were solicited from the AALL membership regarding OUP and its products. The comments were mostly about the former Oceana print and online titles. Comments were also submitted relating to customer service, communication, and licensing. OUP executives and staff fully addressed all these areas. The CRIV also provided OUP with copies of the AALL Guide to Fair Business Practices and the Principles for Licensing Electronic Resources.

The following report is submitted by the CRIV Site Visit Subcommittee. As chair of the subcommittee, I would like to thank subcommittee members Amy Eaton, Joseph Hinger, and Tracy Thompson, and Southeastern Chapter of the American Association of Law Libraries representative Scott Childs for participating in the site visit. I would also like to thank OUP Law Division executives for showing us true North Carolina hospitality and arranging an informative meeting. Our hosts for the visit were:

- Shelly Albaum, Vice President of Law Publishing
- Cheryl Ammons-Longtin, Customer Service Operations Manager
- Margie Grodd, Editor-in-Chief, Law Editorial
- Ken Guerin, Director, Inventory Planner
- Todd Hayes, Manager, Shipping Operations
- Richard Hopper, Director, Library Sales
- Donna Jones, Director, Customer Service
- Julie McGeough, Marketing Manager
- Larry Selby, Editorial Director, Publishing/Development
- Taylor Stang, Information Specialist, Reference Marketing
- Sarah Ultsch, Marketing Director.

Thanks to all of these folks for sharing their expertise with the site visit team.
Oxford University Press (OUP) has been in existence since 1633 and now claims a global presence with 50 offices worldwide. OUP has a very clear mission statement and declares it will only publish works that further its objective of excellence in research, scholarship, and education.

OUP USA is the largest university press in the world and publishes about 600 titles annually. OUP has a rigorous publication process, and all proposed books are reviewed by peers in the field. All publications are also vetted by delegates from Oxford University and other universities in the United States.

In September 2005, OUP purchased Oceana Publications, Inc., and used this as a platform to build a law program for both academic and professional markets. The Law Division has four functions: editorial acquisitions, editorial development, marketing/sales, and production.

OUP’s marketing strategy is based on its global brand recognition and editorial reputation. This positions OUP to build stronger relationships with customers than its competitors. The company aims to be the first choice publisher for authors, societies, organizations, and firms.

One of the controversial marketing approaches the site visit team discussed with OUP is the direct marketing to faculty and attorneys that circumvents the library. We had a very frank discussion about this. The site visit team shared the frustrations of this tactic from a library perspective. Often the faculty member or attorney isn’t in a decision-making capacity or isn’t aware of what the library may already own. There are also budgetary implications of acquisitions that fall to the library. And leaving the librarian out of the loop is simply not a good practice in building strong vendor relations. OUP was very willing to work with libraries on an individual basis to meet the expectations and requirements within their library environments. OUP urged librarians to have frank discussions with their other vendors on this issue, as often the information isn’t conveyed to the vendors, and they simply aren’t aware of the growing tension.

Other marketing practices employed by OUP include a researched marketing program targeted to relevant markets. The publisher pledges to distribute no unsolicited mail or products. All e-mail or notifications programs are on an opt-in basis. OUP has also been successful using blogs, such as opinio juris, to promote products and authors.

OUP is also committed to fair pricing and will make careful and thoughtful decisions about loose-leaf releases. Release schedules will be predictable to help libraries budget accordingly. OUP will review the
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Oxford University Press (OUP) is actually eight publishers in one: reference (lexical and non-lexical), academic (scholarly monographs in all disciplines), higher education, trade (serious non-fiction), law (academic and practitioner), online, bibles, and sheet music.

Richard Hopper, library sales director, and his sales team work with all library types (academic, public, etc.), consortia, OCLC regional networks, and government agencies. Currently 45 percent of all OUP library sales are from the academic market, and 10 percent of sales are from special libraries, which include law firms.

Law customers have three sales representatives. If you do not know who your sales representative is, you may visit www.us.oup.com/us/departments/sales/librarysales/reps/lawsales/?view=usa&view=usa or call 800/624-0153 between 8 a.m. and 5:30 p.m. EST (Monday–Friday). These representatives are available to discuss new titles, set up trial requests, and provide information on pricing, licensing, and forthcoming titles.

Oxford University Press Press Sales

Oxford University Press (OUP) is actually eight publishers in one: reference (lexical and non-lexical), academic (scholarly monographs in all disciplines), higher education, trade (serious non-fiction), law (academic and practitioner), online, bibles, and sheet music.

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The last 25 years of legal publishing have shown us a massive consolidation. We have gone from dozens of unique, independent publishers to three big players dominating the market. Oxford University Press’ (OUP) goal is to reinvent legal publishing and return it to editorial excellence. With the purchase of Oceana, OUP increased the editorial staff from 1.5 full-time employees to 19. Oceana was known for comprehensive sets and legal classics. OUP is updating the classics and adding important new books, with a focus on treatises designed for the practitioner’s desktop.

New Product Development Program—OUP USA Law Division

The U.S. legal publishing industry began in the 19th century, when many legal publishers began devising ways to keep track of the different legal authorities. There were literally hundreds of legal publishers. During the past 30 years, beginning approximately in 1979, the legal publishing industry consolidated. Today three corporations (Reed Elsevier, Thomson, and Wolters Kluwer) control virtually all legal information publishers. Oxford Law will reinvent legal publishing in the United States by returning to its roots in editorial excellence. The mission of Oxford Law states that it will provide legal scholars and practitioners with leading analysis based on and integrated with authoritative primary law, in both print and online formats, consistent with the Oxford University Press (OUP) commitment to excellence, tradition, and innovation. Works published by OUP tend to fit into one of the following three questions:

• What is the law?
• What should the law be?
• How do I practice the law?

In transitioning from Oceana to Oxford Law, editorial is the number one investment area for the new company. Oceana had dedicated 0.5 full-time equivalent (FTE) to new product development and one FTE to editorial development. Since the transition,
Oxford Law currently employees nine FTEs to new product development and 10 FTEs to editorial development. Historically, Oceana was known for its comprehensive sets, such as the Terrorism series and Digest of Commercial Laws of the World. It also published some major legal classics, such as Bramble Bush and An Introduction to the Legal System of the United States.

Oxford Law is going a bit further and improving upon the Oceana tradition. A prime example of this improvement is Oxford Law’s new edition of Bramble Bush published in 2008, which includes a new introduction and notes. Oxford Law is also beginning to publish new legal monographs that were not part of Oceana. The first monographs to be published by Oxford Law were Retaking Rationality and Patent Appeals. Since the Oxford Law transition took place in 2007, there has been a 96 percent success rate in signing contracts with authors to write monographs in most major practice areas.

Oxford Law is simultaneously developing two different publishing programs. The Scholarly Program will include monographs that cover all major practice areas, and it is estimated that more than 50 titles will be published each year. The Practitioner Program will include publications that provide guidance of senior counsel, which are authoritative in nature, and there will be practical handbooks and fewer loose-leaf and multi-volume publications. In working with the two programs, Oxford Law employs six acquisition editors who are assigned different areas of law.

Oxford Law uses several guiding principles when planning its publications. Of utmost importance is the content, which must be high-quality analytical content, which is more important than ever. Also important is the use of the publication. Oxford Law believes there is a strong need for practical desk books in the specialty practitioner’s office. Also important is the availability of each title in an online format with links to primary law, and the price, which should match the customer’s need.

Oxford Law will continue to publish more than three dozen loose-leaf sets and some bound volume series, most with an international law focus. There will still be multiple releases each year to keep the information current. Also there will be numerous country-by-country survey products, and all the products usually have primary law at the core, combined with some commentary, analysis, and forms.

Oxford Law is upgrading all the loose-leaf titles before re-branding them as Oxford titles. The redevelopment of these titles is content focused and based on customer needs. Market research is done by survey and peer review. Generally, Oxford Law is adding more commentary, increasing the quality of the commentary, improving the comprehensiveness, and adding unique and difficult-to-find content. In many instances, it is adding or improving finding tools, such as tables of contents, indices, tables of authorities, etc. Most of the loose-leaf products will eventually be available electronically. Oxford Law also is checking each title to make sure that the approach to the content meets the evolving needs of scholars and practitioners.

Law Online—New Online Products

Oxford University Press (OUP) debuted its new “Oxford Reports on International Law” in July 2008. This product is the premier online service integrating important decisions on public international law from international courts and tribunals, domestic courts, and ad hoc tribunals. Integrating the full scope of international case law for the first time in an easy-to-navigate online environment, this resource draws upon the expertise of leading scholars and practitioners to provide high-quality, timely reports and analysis. This service includes full linking to and from cases and instruments that relate to or cite each other, authoritative information on citation, and high-quality translations into English. This product is broken down into five modules:

(1) Oxford Reports on International Law in Domestic Courts
(2) Oxford Reports on International Criminal Law
(3) Oxford Reports on International Human Rights Decisions
(4) Oxford Reports on International Investment Claims

This last module is included with a subscription to one or more of the other submodules. Most important to note about the modules is that they are not all inclusive of everything put out by the courts. Oxford Law selects the most important and high-profile reports to include in the service. Each module will include anywhere from 100-350 cases reported upon launch, and each module will be updated annually with the addition of up to 1,000 cases, depending on each individual court.
Any customer that purchases any of the modules in this service will automatically receive a product called the “Oxford Law Citator.” This product offers easy-access linking to related content available in all new OUP Law Online services. Links in case reports and judgments lead to the Oxford Law Citator page, which displays all available key details, including the case details (name, parties, court, and judgment date), official and parallel citations, earlier or subsequent procedural states, instruments and parts of instruments cited, and available case reports.

Also launching in 2008 is the Max Planck Encyclopedia of Public International Law Online. This service will be updated quarterly, and the online edition will include full search functionality and click-through cross references to other entries within the title, as well as to related content in other Oxford Online services. This online service is a fully revised version of the print edition initially published under the auspices of Rudolf Bernhardt. The 1,700 articles include more than 700 new topics not covered in the print edition. The service also reflects modern developments with increased coverage of international criminal law, international dispute settlement, trade law, and environmental law. This service will be written by more than 650 scholars and practitioners worldwide and will be edited by a team of the Max Planck Institute for Comparative Public Law and International Law. Each article will be peer reviewed by the members of the advisory board.

The final electronic product launching in 2008 by OUP is called Investment Claims. This service will include more than 300 full-text investment awards with authoritative commentary and regular updates. Complementing the official documents and commentaries are investment treaties and treaty sector overviews, relevant international treaties and domestic legislation from jurisdictions in the United States and United Kingdom, arbitral rules, and online versions of key OUP arbitration books and journal articles. Included will be informative headnotes; a collection of rules, statutes, and international instruments; expert commentary on key jurisdictions; and full texts of monographs and journal articles.

OUP Law Online offers customer support Monday-Friday, from 9 a.m.-5 p.m. EST and can be reached via phone, e-mail, or the OUP Web site. The company will set up 30-day trials for any of the products, and it aims to respond to all customer inquiries within one business day.

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**Customer Service**

Plans are underway to revamp the Oxford University Press (OUP) customer service Web site. The CRIV recommended self-service tools be added to the Web site that would allow customers to view their accounts in real time, request a copy of an invoice or statement, view pricing history for any title, and manage their accounts online. The CRIV also recommended that the customer service call center hours be extended to better accommodate West Coast customers.

AALL customers commented on problems with OUP invoices. Titles are abbreviated, and the type is too small to easily find on the invoices. Donna Jones, director of customer services, agrees. After reviewing several invoices she fully understood customer frustrations. The customer services department is working to develop standardized invoices that will expand the title description and enlarge the type font.

AALL customers also requested a publication schedule and annual invoices for the former Oceana titles instead of being invoiced by release. OUP announced that the publication schedule was being developed and that it is looking forward to implementing the schedule and offering annual invoices.

Private law libraries are particularly interested in receiving customized invoices that include local sales tax to the totals for the states and cities that require it. Accounting departments must manually add tax every time an invoice is processed, which slows the processing time and delays payment. It is unclear if the SAP software used by OUP can provide customized invoices, but the customer service department volunteered to investigate further.

AALL customers voiced concerns about not receiving prompt responses when contacting OUP, regardless of whether they phoned, e-mailed, faxed, or used the U.S. Postal Service. Members expressed frustration about not receiving any indication that their questions were under review. The customer services department has made changes that will have a positive impact on all customers.

OUP has 35 customer service representatives. Law customers now have a law customer service team staffed with four specialists. The law customer service department also has a separate toll free number (866/445-8685). During the past year, and since the Oceana acquisition by OUP, the customer service response time has improved significantly. A customer service Web page specifically for law customers is also in development.
Order Fulfillment and Warehouse

Oxford University Press (OUP) has utilized the Warehouse in Cary, North Carolina, for approximately 13 years. The warehouse consists of about 190,000 square feet. The facility holds 21,780 active titles ready for processing and shipping. The large organization is capable of shipping 8,000-13,000 orders per day. The typical order is processed within the warehouse in less than 48 hours.

Ken Guerin is the director of inventory planning and has 30 years of experience on which to rely. Todd Hayes is the director of warehouse operations. OUP has 58 total warehouse employees.

The CRIV site visit team toured the warehouse and had access to the entire operation. The receiving dock manages initial handling of incoming materials that may be processed for warehousing and the final distribution requirements of outgoing materials.

The bulk storage locations consist of high bay racks that can hold a total of 21,000 pallets. Access to the racks is facilitated by mobile carts moving on an electronic line built into the floor of the facility. The automated access has a locations accuracy rating of 98.7 percent. During the tour, several members of the CRIV site visit team rode on the retrieving cart, receiving an up-close and personal view of the retrieving process in action.

The shipping lanes conveyed the materials from storage and prepared them for storage. Information about the size and weight of each book was utilized in preparing for packaging as the computer system projected the size boxes necessary and the weight of each one, based on the specific order. This information about the size and weight of each book was also used as one of the quality control measures. The computerized estimate of the shipping size and weight can be compared to the actual size and weight of the prepared order before shipment. Any discrepancies can be addressed before shipping.

CRIV members also visited the distribution warehouse returns area. The returns area is capable of processing 6,000 returns per day.

Portland 2008—Educational Program Summaries

Editor’s Note: The handouts and recordings for these programs are available for purchase at www.aallnet.org/products/products_educational.asp.

Dina Dreifuerst  
Bracewell & Giuliani, LLP, Houston

Program B-3: Evolving Fair Use Policies in the Private Law Firm

Speakers:
Bruce Funkhouser  
Copyright Clearance Center

Christine L. Graesser  
Brown, Rudnick, Berlack, Israels LLP

Linda C. Gray  
Nelson, Mullins, Riley & Scarborough, LLP

James S. Heller  
College of William & Mary Wolf Law Library

Terry A. Seale  
Dorsey & Whitney, LLP

The first third of this 75-minute program was devoted to “Infringement Feud,” a mock game show used to present the results of a recent national survey of private law librarians regarding permissible use under the Copyright Act. The contestants were Nervous Nellie (Linda Gray, research librarian at Nelson Mullins Riley & Scarborough, LLP, in Greenville, South Carolina), who considered every use an infringement, and Laissez-Faire Lucy (Christine Graesser, legal information specialist at Brown Rudnick LLP in Hartford, Connecticut), whose stock answer was, “Whatever.”

The game show posed gray-area questions, like copying statutes from USCA or USCS for a hearing, copying an article for a firm employee, and using New Yorker cartoons in an internal presentation. For each question, the “contestants” stated their positions, the audience was polled, the survey results were revealed, and James Heller, director of the law library and professor of law at the College of William & Mary Wolf Law Library in Williamsburg, Virginia, offered his opinion. With respect to statutes, Mr. Heller pointed out that the text of the law is in the public domain, but the annotations are not. In response to a later question about copying an article for a deposition, Mr. Heller declared that a single copy for an individual becomes his or her property and “even clearer fair use” if used for a deposition.
The point of Infringement Feud was to show that even librarians disagree on permissible use and infringement. Also, some of Mr. Heller’s interpretations of fair use in law firms seemed rather liberal. Perhaps a few citations to case law delineating permissible use in such circumstances would have been helpful.

But that’s the problem, isn’t it? When we think of landmark copyright decisions, we think of those that smile the users and smile upon copyright holders. Those cases describe such egregious violations and cavalier attitudes that I am left dumbstruck! I know of no copyright case where a for-profit end user has prevailed, which may explain the almost-paranoid stance of most private law librarians with respect to copyright and licensing terms. Has anyone ever been sued for needlessly paying copyright fees?

Still, Mr. Heller’s declarations of “Just because you can pay, doesn’t mean you have to pay,” and “Just because they say they want money, doesn’t mean they’re entitled to it,” were greeted enthusiastically by the audience. However, Mr. Heller also reminded us that it’s possible to sign away Fair Use and Section 108 rights by license agreements, which govern more and more content.

Following the game show portion, each speaker discussed issues pertaining to copyright in the for-profit sector. Ms. Graesser briefly described the AALL Model Law Firm Copyright Policy, which can be found on the Private Law Libraries Special Interest Section home page and on AALLNET (www.aallnet.org/about/model_law.asp). It offers guidance on routing, copying, interlibrary loan (ILL), document delivery, and computer programs and can be customized for your firm. Ms. Graesser added that she appends to all electronic newsletters a statement along the lines of, “If you wish to share this content, you need to do ______, and be mindful of ______.”

Bruce Funkhouser, vice president of international and distributions for Copyright Clearance Center (CCC) spoke next, explaining that CCC doesn’t interpret copyright law; it just collects and distributes revenue ($1 billion since 1978). He discussed the intent behind copyright law and classes of content not protected by copyright, as well as some “logical examples of fair use.” Mr. Funkhouser then gave an overview of the standard four factors used to determine fair use of copyrighted material: purpose of use, nature of the work, quantity used, and effect on the marketplace.

Finally, Linda Gray addressed the nuts and bolts of developing a law firm copyright policy, and I considered her presentation the most useful and practical portion of this program. Ms. Gray emphasized the need for a top-down approach to policy development. The library will probably start the process, but to ensure a successful implementation, “it has to be broadcast from the upper management,” Ms. Gray said.

First, consider why you need a policy, what will happen without one, and any drawbacks to having a policy in place. Copyright law is complicated, and even experts can disagree about its application. Before developing a policy, have a solid understanding of copyright law and the ethical implications. Recognize and respect “the rights of the owner and the user of intellectual property,” Ms. Gray said. Your policy should address financial aspects, including ILL, document delivery, and client-billable work. Weigh the combined costs of a CCC license and internal tracking versus outsourcing to a service that collects copyright fees. Consider the value of staff time, tracking methods, types of data collected, etc.

Ms. Gray also recommended reviewing sample firm copyright policies and reading the literature. Create a draft policy, then seek buy-in from “a friend of the library” (library partner, administrator, best practices committee)—someone with authority who can facilitate implementation. The policy should be written by a team (librarian, administration, legal counsel, actual users). If you want people to pay attention, it must be “clear and simple,” accessible, and approved by administration, Ms. Gray said.

Additional advice: provide user training and guidance, make the policy mandatory reading for everyone, and attach electronic copyright notifications to e-mailed materials. Include educational materials, bibliography, “horror stories,” links to copyright Web sites, and a revision plan as the law changes. A mission statement is essential. Summarize current law, exemptions, and licensing agreements. Outline the process for requesting permission and include FAQs.

During the question and answer portion of the program, the speakers were asked for sources of general guidance. The panel suggested print titles like James Heller’s book and The Complete Copyright Liability Handbook for Librarians and Educators and online resources like licensingmodels.com and Liblicense-L. In addition, Terry Seale, taxonomist at Dorsey & Whitney, LLP, in Minneapolis, will e-mail the library survey results and sample law firm copyright policies on request (seale.terry@dorsey.com).

In all, this was an informative and thought-provoking presentation by a panel well versed in copyright and fair use in the private sector. The audience came away with a better understanding of the subject and will hopefully be inspired to develop copyright policies for their own organizations.
Program C-4: Official but Not Authentic: The Future of Electronic Legal Information

Speakers:
Joan Shear  
Boston College Law Library

Michelle Timmons  
Minnesota Office of the Revisor of Statutes

Tom Wrosch  
Oregon Secretary of State Corporate Division

This program examined the concerns surrounding the move by states away from publishing primary legal material in paper in favor of online access. While the movement from paper to digital offers increased and more equitable access and saves states money in terms of printing, mailing, and storing material, it carries with it the challenge of ensuring that access will be of a permanent and reliable nature. A closely related concern is how to ensure that the information will be of a permanent and reliable nature. A closely related concern is how to ensure that the information is both official and authentic—two distinct characteristics that are often blurred or overlooked in the race to go digital.

Joan Shear, legal information librarian and lecturer in law at Boston College Law Library and 2007-2008 chair of AALL's Access to Electronic Legal Information Committee (AELIC), opened the session with a brief introduction of the two speakers: Michelle Timmons, Minnesota revisor of statutes, and Tom Wrosch, senior policy advisor in the Oregon Secretary of State's Corporate Division.

Ms. Shear framed the issues by providing a timeline of recent initiatives undertaken by AALL and the National Conference of Commissioners on Uniform State Laws (NCCUSL). The first of these initiatives was AALL's State-by-State Report on Permanent Public Access to Electronic Government Information, released in 2003. While this study showed a growing awareness of the necessity for valuable electronic government information to remain available to the public for continuous and future use, it also showed the increased fragility and decreased reliability of electronic information over time. In 2007, AELIC published a follow-up study titled State-by-State Report on Authentication of Online Legal Resources. This report was followed by AALL's National Summit on Authentication of Digital Legal Information.

Both the 2007 report and the summit raised concerns that some states were discontinuing print versions of their primary legal resources without providing for authentication or preservation of them online. Ms. Shear pointed out that the 2007 report showed that states aren't always clear in the difference between "official" and "authentic." Official means a document is mandated or approved by statute or rule, while authentic means there is some way to verify that a document in its digital form is the exact same as the original produced by the court, legislature, or state agency. The 2007 report indicated that a number of states are providing content online that is official but aren't doing anything to ensure that it is authentic. In concluding her timeline, Ms. Shear announced that NCCUSL had recently approved the appointment of an authentication study committee.

Michelle Timmons is a NCCUSL commissioner and drafted the proposal for NCCUSL to create the study committee. The new committee is charged with investigating whether a uniform or model law is warranted to deal with digital authentication of online legal resources. Ms. Timmons worked with Mary Alice Baish, AALL acting Washington affairs representative, in drafting the proposal. NCCUSL had a number of questions for AALL in its consideration of the need for a uniform law on authentication and the need for a study committee. These questions included: What is the objective in creating a uniform law? What is the project scope? What is the impact of copyright? Wouldn't the problem be better solved by best practices standards?

AALL answered that online legal resources should be trustworthy, and this includes authentication, permanent accessibility, and preservation. A uniform law would require adherence to these principles for the online version before allowing the elimination of the print version. The scope of the project would cover all state-level online legal information first and, if successful, would expand to cover local government information. AALL saw no conflict with copyright law in that online documents can carry copyright notice and also be official and authentic. Lastly, AALL responded to the best practices question by pointing out that principles of trustworthiness, authentication, permanent accessibility, and preservation are legal in nature and that technological solutions may not be entirely satisfactory in addressing the issue. Ms. Timmons was happy to report that the formation of the study committee was approved in February 2008 and that members of the committee would be appointed at the NCCUSL Annual Meeting in July 2008.

Tom Wrosch focused his talk on technological solutions to the authentication issue. Mr. Wrosch pointed out that not only do state laws and rules require authentication but so do the official status of business entities, archived public records, and even metadata that may be used as evidence in court. Mr. Wrosch said the technological considerations
also differentiate between source authentication (i.e., “official”) and content authentication (i.e., “authentic”). Source authentication can be maintained through internal policies and procedures to ensure that the document is the official version. Content authentication addresses the issue of how one can trust that a document is what it purports to be. There are two types of content authentication. Some documents are self-evident or self-authenticating, as in the case of notarization. However, when it comes from a computer, one is less apt to trust the notarization. One way to resolve this is through “out of band verification.” This is where a document can be verified by going to a Web site and having a third party verify it for you.

The technology used to provide content authentication depends on the risk or likelihood of falsification. Where the risk is low, you may not need to spend a lot on technology. Where the risk is high, you will need to make the investment. Technologies range from low tech to high tech with increasing costs involved for each. Such technologies, ranging from low to high, include verification numbers, restricted access (password protected), hash numbers, time stamping, Secure Socket Layer, and Public Key Infrastructure. An example of a lower tech authentication process is to assign a certificate ID number to an official document, which then can be entered into a validation Web site for verification of authenticity. This model is presently used by the Kansas Secretary of State’s Office.

Michelle Timmons, putting on her Minnesota revisor of statutes hat, finished out the program with a discussion of what Minnesota is doing toward ensuring its online state legal materials are official and authentic. The state’s executive branch publishes the Minnesota State Register online. It is official, and authentication is provided through the use of PDF format. The judicial branch publishes its opinions in PDF format; however, these are not considered official. The legislative branch (under which falls the revisor’s office) publishes the session laws, statutes, and administrative rules, which, while available online in both HTML and PDF formats, are only considered official in print.

The goal of the revisor’s office is to produce official digital versions of all three publications. To this end, it has identified three areas upon which to focus: (1) a trustworthy information system; (2) data architecture for preservation; and (3) a mechanism for verifying authenticity. Once all three areas are complete and the online versions are both official and authentic, the state will consider whether to continue publishing paper versions of the session laws and administrative rules.

Perhaps the most important theme of the program was something all three speakers reiterated. Occasionally, we allow technology to get ahead of us without seeing the ramifications. Authentication must be tackled right away and done right. The sooner we work toward a solution, the smaller the mess we will have to clean up. Otherwise, we may discover down the road that we have holes in our online state document collections.

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and began the session by noting that there would be no PowerPoint; her hope as moderator was that this would be more of a conversation than a presentation.

Many communication issues bubble up when libraries use vendors in other countries. Not only can there be language and cultural misunderstandings, but the communication infrastructure itself may be less than ideal. vLex hires an American to manage communication with U.S. customers. vLex also provides sales and customer service in English and has some training tools in English.

Ms. Thompson noted an issue with LexisNexis when she worked to acquire content of JurisClasseur for her members. NELLCO had to work with Lexis France, and the licensing agreement was in French. NELLCO was unable to acquire the content because of this problem. LexisNexis is addressing this by moving sales of all content to country of purchaser and hopes to increase sales of global content. LexisNexis is also developing a global master contract with perhaps a smaller appendix of local requirements. LexisNexis created Yandle’s position to address these “Tower of Babel” issues.

Jonathan Franklin, associate law librarian at the University of Washington M.G. Gallagher Law Library in Seattle, noted that his library has staff members able to translate contracts for his library. However, working with vendors from other countries does offer challenges with training and support.

David Finch, customer liaison manager and trainer for Justis Publishing, stated that time zones offer quite a challenge for his team, and seemingly simple problems can sometimes take days to solve. To resolve this issue, Justis has set up a night crew to respond to requests from other time zones. However, the company still needs to train users to contact the main number and not the customer service representatives if they want a quick response. Ms. Thompson suggested that communication expectations can and should be discussed at the beginning of the library-vendor relationship.

Determining the reputation of non-U.S. vendors is another difficulty for U.S. customers. The vendor or publisher may be new to the market, and it can be tricky to determine its reputation in its own marketplace. Mr. Franklin mentioned that some of the vendors aggregate their content, and he needs to know their sources and any restrictions that may come with the content. Market consolidation also may lead to a vendor with an excellent reputation acquiring a product with a less than stellar reputation. Our role as librarians is to poke around behind the curtain. Mr. Finch recommended contacting law librarians in other markets to help determine the reputation of the product and vendor. Stephen Yandle, vice president at LexisNexis, mentioned that there are varying price points for gold-standard products and for emerging products. vLex licenses agreements with other companies, and this can help unknown brands to emerge.

During the panel’s conference call before the meeting, the pricing for foreign materials in the U.S. market generated a lot of discussion. Specific content may be very important in the home country, and the vendor may attempt to bring it into the U.S. marketplace as if it were equally important here. The value in U.S. markets may not necessarily be as high. The question for the vendors is, how do you assign value to your product in different markets and make it sustainable? LexisNexis has determined that the producing country will set the baseline price, which will reflect production costs. The buying country then sets the market price. vLex prices based on three markets: Europe, the United States, and emerging markets, such as South America. Justis prices content based on the value of the product to the purchasing country, and much of the value is determined by how often the content will be accessed. Packages of content also vary by country, and customers can build specific packages. Mr. Franklin notes that academia would like to be able to purchase content for a single user or short-term use but finds that most vendors do not offer this option.

At this point in the session, two librarians asked a number of related questions. Academics are moving from the model of building collections to more of the law firm model where content is quickly acquired and removed when need for it ceases. How receptive are vendors to quickly negotiated, short-term contracts in the academic world? Do any of these vendors offer pay per use? vLex responded that it does offer pay-per-use access. The librarian from the audience urged more vendors to move in this direction.

The audience member also asked how vendors feel about trials that don’t lead to subscriptions and how librarians can find pricing information and consortium prices. Justis said that pricing is not available on its Web site because there are too many variables. This is the case for most vendors. Pricing is based on a discussion of use and needs. vLex offers searching for free, but users pay to open documents. Libraries can also subscribe for just one month.

Ms. Thompson offered that trials often do not lead to subscriptions and hoped that vendors see this as a cost of doing business. Trials may lead to subsequent business, even if not right away.

The session ran out of time, and the other two points were not addressed.
Program J-6: Tales from the Dark Side, or If I Knew Then What I Know Now!

Speakers:
Dina Dreifuerst  
Bracewell & Giuliani LLP

Susan Skyzinski  
Greenberg Traurig Research Center

Catherine S. Whitney  
Thompson & Knight LLP

“Being with a vendor doesn’t make you evil.” With this bold statement, “Tales From the Dark Side,” a 30-minute presentation about what librarians should know when dealing with information vendors, commenced. The three speakers, all former employees of legal vendors who have returned to library positions, understandably had unique insights on the vendor-librarian relationship. Three major themes developed throughout the discussion: (1) having a good vendor/librarian relationship takes effort; (2) vendors make decisions based on business concerns; (3) if you don’t ask for something, you won’t get it.

Having a Good Vendor/Librarian Relationship Takes Effort
Having a relationship with a vendor is a two-way street, requiring effort not only on the vendor’s part but on the librarian’s part as well. Trust needs to be established and maintained. This requires that the vendor let the librarian know information about the company and its goals, such that the librarian can help the vendor meet those goals when negotiating a contract. Similarly, the librarian can let the vendor know his or her needs and limitations so the vendor can try to meet them.

Most importantly for the relationship, the lines of communication must be kept open. Librarians complain when vendors go around them and contact others in the library or firm. Recognize that librarians are sometimes part of the problem in this situation. Open the door to communication with the vendor—take the time to talk to them, and don’t let their calls always go to voicemail. If they are unable to talk to you, they will look for another way into your organization. Recognize that part of your job as a librarian is to deal with vendors. Tell the vendor when a good time would be to follow up instead of just saying you are too busy. It can also help to tell attorneys and those on your staff that if they receive calls from vendors, they should point them to the librarians.

Vendors Make Decisions Based on Business Concerns
The idea that vendors make decisions based on business concerns can help librarians understand that the vendor isn’t evil and out to get them. Realize that if you as a librarian don’t get everything you ask for, it is likely not because the vendor doesn’t want to give it to you, but rather that it doesn’t make business sense for the company to do so. Conversely, if you have a good relationship with a vendor’s representative, don’t ask him or her for favors. This can cause a good relationship to turn awkward if the representative can’t fulfill the favor, which is likely if the vendor requires decisions based on business factors. If you can present your friend/representative with a business case for why it makes sense to do what you are asking, it can be justified to the vendor.

Another potential frustration in vendor-librarian relationships is the sudden loss of the librarian’s vendor representative. Again, realize it’s just business. As structural changes occur within an organization or the economic climate transforms, a vendor’s employees will inevitably be affected such that some librarians may find themselves with new representatives.

If You Don’t Ask, You Won’t Get It
We all know that some libraries get better contractual deals than others. That is because there is always room to negotiate, but you have to ask for what you want. You don’t have to haggle, but if a vendor doesn’t know what it is you really want, or that price is holding you back, then he or she can’t work with you to address the real issue. In the end, you do have to be willing to walk away if the vendor can’t meet your concerns.

We all know that budget issues are often such a concern. Librarians with tight budgets may need to give something up, even if only temporarily. If so, let the vendor know—it’s just business for the librarian as well.

On a related note, if you are frustrated that a particular vendor will never state a price or give some other crucial piece of information ahead of time, make that a condition before you will meet with him or her or carry any conversation forward. Note that here we have come back to the first theme—working on the vendor-librarian relationship by keeping the lines of communication open. Be firm and upfront with your expectations regarding the information you require from the vendor, clearly communicate your needs, and let the vendor do the best he or she can to meet him or her for a win-win situation.

“Tales From the Dark Side” was a fast-moving session with helpful information for those new to the vendor-librarian relationship, but it also contained valuable insights for those who have been involved in the issues for years. While no PowerPoint slides or handouts were utilized, the content itself was presented in an entertaining and engaging manner. If you weren’t able to attend this particular session in person, I highly recommend obtaining the audio recording.
Program K-1: CRIV Tools: Useful Resources for Working with Information Vendors

Speakers:
Robert R. Myers, Jr.
Case Western Reserve University

Mary Ann Nelson
University of Iowa Law Library

Two members of the CRIV Tools Subcommittee, Mary Ann Nelson, executive law librarian at the University of Iowa Law Library in Iowa City, and Robert Myers, manager of serials and collections access/reference librarian at Case Western Reserve University Law School Library in Cleveland, presented a program covering the useful resources found on the CRIV Tools page, www.aallnet.org/committee/criv/resources/tools. The importance of keeping these tools updated was emphasized. Mr. Myers encouraged participants to fill out a survey with any ideas or suggestions for updating the CRIV Tools Web page. The survey would also be available through Survey Monkey, which would be sent out via the law-lib online discussion forum. He also asked participants for their e-mail addresses if they would like to volunteer to update the page, for example, by checking to make sure URLs are still active.

The program began with Ms. Nelson explaining what a CRIV Tool is: “A CRIV Tool is a document, such as a checklist, sample form, or sample letter, which is intended either to aid acquisitions and serials librarians in the performance of routine tasks or assist them in solving commonly occurring problems.” Ms. Nelson also explained how librarians who don’t have a lot of experience dealing with vendors would find the CRIV Tools Web site especially useful.

The Present CRIV Tools Page

Next, Ms. Nelson discussed the current CRIV Tools page. While the page is still very useful, many of the tools are out of date. Additionally, not all of the tools listed on the Web page are still practical. There are plans to add new tools to the site. Ms. Nelson also explained that AALLNET is not able to support Web 2.0 technologies, and she hopes that the CRIV Tools page can migrate to a site that supports Web 2.0 hosted by a law school.

The first tool discussed was the AALL Guide to Fair Business Practices for Legal Publishers. The guide was developed to help define the relationships between vendors and law libraries. It contains practices to follow, as well as practices to avoid. The guide can be found on the CRIV Tools page and can also be purchased from AALL.

Next, Ms. Nelson covered the Checklist for Negotiation of Internet Subscriptions. The checklist, originally authored by Jean O’Grady, covers issues that should be addressed when negotiating Internet subscriptions with legal information vendors. Ms. Nelson stated that while the checklist is still useful, it needs to be updated, or a bibliography should be added that covers current practices.

The next topic covered was dealing with telemarketers. Now that e-mail communication is more prevalent, libraries are dealing less with unwanted telephone solicitations. Even with this change, Ms. Nelson proposed that this tool should be updated by adding information regarding the federal “Do Not Call List.” She also suggested that librarians look at their own states’ laws regarding telemarketing.

One tool that the subcommittee thought could be removed was the Divested Titles List. This page would take a lot of time to update, and Ms. Nelson stated that she believed it was no longer needed. Librarians now can look at the Legal Information Buyer’s Guide & Reference Manual by Ken Svengalis or use Google to find the same information. Ms. Nelson then briefly discussed the Getting Results from Customer Service page and reminded everyone to use common sense when dealing with customer service representatives.

The final tool that Ms. Nelson discussed was the Beginning Glossary of Publishing Terms. Explaining that this page was especially useful for newer librarians unfamiliar with publishing jargon, Ms. Nelson also said that this page needs to be updated because it does not contain the new technology terms used by today’s vendors, such as “counter compliant” and “IP access.” Ms. Nelson also proposed that a glossary of licensing terms be created.

Mr. Myers began his section of the program with what he referred to as the “granddaddy” tool found on the CRIV Web site, A Legal Publishers List: Corporate Affiliations of Legal Publishers 2d. This page is current through 2005. This resource lists the corporate hierarchical structure for large publishers, independent publishers, and “other” publishers. It also provides links to any subsidiary sites. Mr. Myers wondered if the information on this site was presented in the best format. He thought that maybe a family tree format would be better. He then asked for volunteers to help keep this site current.

Next, Mr. Myers briefly spoke about the Making the Best Use of the Exhibit Hall page, explaining that the page offers tips on how to get the most of your visit to the exhibit hall. The Sample Letters to Law Library Vendors page was then discussed. Mr. Myers said that the letters are still good, but the page needs to be
updated and that he is open to suggestions. The subcommittee would like the letters to be updated, as well as new letters added, such as one focusing on counter compliancy and requesting usage statistics.

Mr. Myers then discussed the Sample Publishers Log page. A publishers log, also known as a serials issues log, is “a formal account of all action taken on a particular publisher problem. It is a record of all steps taken to resolve a dispute.” Mr. Myers proposed that this page could be updated with a sample publishers log created in Microsoft Access or Excel.

The final CRIV Tool page covered in this program was Vendor Contact Information Grids, which is a list of vendor contact information, customer service contacts, and copyright contacts. This list was last updated in July 2002. Mr. Myers suggested instead of updating this particular page, links could be provided to each publishers’ customer service page.

The program concluded with Mr. Myers explaining the subcommittee’s ideas for new CRIV Tools. He suggested the following: a bibliography of articles and books on dealing with legal information vendors, sample invoice spreadsheets and budget codes, and a list of links to other organizations’ tools, such as the Special Libraries Association.

The program ended with no time for questions.

New Product Award Nominations Sought

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 New Product Award.

The New Product Award honors a new, 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 available. A new product is one that has been in the library-related marketplace for two years or less.

Every AALL member is encouraged to think about the exciting new information products being used in law libraries and to submit nominations for this award. Recipients of the New Product Award need not hold membership in AALL. Nominations for this award may be made by any AALL member and by vendors nominating their own products.

To Submit a Nomination for the 2009 Award:

Please visit the CRIV Page (www.aallnet.org/committee/criv/news/newprod.html) for a copy of the submission form or fill out the form on the following page and mail/fax as soon as possible. **Deadline for receipt of submissions is February 1, 2009.**
American Association of Law Libraries New Product Award Nomination Form

Please use this form to submit a nomination for the New Product Award.

Name and Address of Vendor
______________________________________________________________________________________________
______________________________________________________________________________________________
______________________________________________________________________________________________

Year of Introduction (product must be no more than two years old) ________________________________

Primary Contact Person within Your Organization if further information or confirmation of receipt is required.
Name_______________________________________________________________________________________
Title_______________________________________________________________________________________
Telephone Number __________________ Fax Number __________________
E-mail Address ______________________________________________________________________________

Product Name. If this is a Web-based or online product, please include the URL for the product and any login/password information that may be required to gain access to the product. If you are concerned with submitting a username/password, please indicate who should be contacted within your organization for this information. All login, username, and password information is kept confidential, but it is required to properly review the product.
______________________________________________________________________________________________
______________________________________________________________________________________________

Brief Description (250 words or less) of the Product. Please describe: (1) the purpose of the product; (2) the intended audience of the product; and (3) how this product is innovative and better than similar or preceding products. A demonstration of the product or a sample of the product may be offered to the committee for review.
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Submit by February 1, 2009, to:
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