Expand/Collapse All

Copyright Approach for Library Digitization

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Context:

This document lays out the copyright approach used by the Digitization Centre at the McMaster University Library. The Digitization Centre digitizes Library-owned books and archives (including textual and graphic materials) and makes these materials publicly available through the Library's Digital Archive online repository or the Institutional Repository, MacSphere where possible in accordance with relevant privacy legislation, donor agreements, and moral bounds. Materials that may not be made available on moral grounds include Indigenous Traditional Knowledge, other culturally sensitive materials, and/or other materials that are morally questionable to share, such as archives that reveal potentially damaging personal information, e.g. "outing" a private citizen.

This copyright approach applies to both published and unpublished works that may still be under copyright to a person or organization other than McMaster University, but are not available to purchase or license in a digital format.

Approach:

Since copyright is a rights-holder enforced system, managing copyright is largely about identifying and managing risk. Risk management is a combination of risk assessment and risk mitigation. Risk assessments look at the likelihood the copyright holder could enforce the copyright protection over an item. Risk mitigation is about due diligence and acting in good faith by having things like take down procedures in place.

As part of a risk management approach, the Digitization Centre will:

- Offer robust takedown procedures:
  - While we will operate in good faith to the best of our abilities, we may not be successful in tracking down a copyright holder or may mistakenly date

an author's death. As such, copyright holders whose material has been shared without written permission and who can substantiate their ownership may request materials be removed from online repositories at any time

- Seek permission from the copyright holder to make materials available, where feasible:
  - Copyright holders will be documented where known. Seeking permission will rely on identifiable and disambiguated creators or publishers, and the continued operation of a publisher
  - All attempts to seek permission will be documented and recorded
  - For unpublished materials, the Digitization Centre will seek permission from identifiable creators who are public figures or significant contributors to archival fonds (I.e. must have authored more than 10 documents or 100 pages)
- Copyright information will be documented but permission will not be sought:
  - For published works, when:
    - The creator can reasonably be assumed to have died
    - AND the work is out of print
    - AND the publisher is defunct
    - AND there is no known estate enforcing copyright
  - For unpublished works, when:
    - Creators cannot be identified (e.g. anonymous or unsigned works)
    - Creators cannot be disambiguated (e.g. common names with no other distinguishing identifiers, or significantly out of date identifiers, such as decades old addresses)
    - Creators did not make a significant contribution to the archival fonds and are not public figures (e.g. a private citizen who contributed a very small number of records, such as a single piece of correspondence)

**Note "make available" is being used here to mean ingesting digitized copies of full works into the openly accessible Digital Archive repository.

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