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Foreword

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FOREWORD

Andrew Chin *

I am honored to have the opportunity to introduce the *North Carolina Journal of Law and Technology's* symposium issue honoring the distinguished and multifaceted career of Professor Laura N. (“Lolly”) Gasaway. In doing so, I note that Lolly’s career is a work very much in progress, so this *festschrift* is not a retrospective, but an appreciation.

For the past nine years, I have benefited from Lolly’s exemplary, often heroic, service as a mentor, faculty colleague and associate dean and as a fellow scholar and teacher in intellectual property. We have worked together frequently and closely. But I have only had the privilege of sharing her recent history, and I am pleased to note the inclusion in this symposium of many of Lolly’s friends and colleagues who can speak more fully to Lolly’s nearly four decades as a law librarian and law professor, and to her myriad roles on the national stage in the broader legal, library and academic communities.

Our task is all the easier, because the record speaks for itself. At every turn, Lolly has brought her distinctive voice—and I’m not just alluding to her unmistakable, no-nonsense Southern drawl—to the public discourse on copyright law, as a tenacious advocate of the values of librarianship who also fully understands and appreciates the value orientations of authors, publishers, scholars, teachers, students, universities and other stakeholders.¹ Her contributions have been prolific and enduring precisely because her voice has been so welcome. It is a voice of reason, of compassion, of wisdom, and of clarity.

* Associate Professor, University of North Carolina School of Law.

¹ See Laura N. Gasaway, *Values Conflict in the Digital Environment: Librarians Versus Copyright Holders*, 24 COLUM.-VLA J.L. & ARTS 115 (2000).

Lolly has brought that clarity to her famous chart on “When Works Pass Into the Public Domain,”² which untangles the intricate interplay among various copyright term provisions in the 1909 and 1976 Copyright Acts, the Berne Convention Implementation Act, and the Copyright Term Extension Act. When you search on Google for “public domain,” you get two Wikipedia pages, and the next link that comes up is to Lolly’s chart. This unassuming Web page with a clunky URL has a Google PageRank of 8.³ For comparison, the New York Public Library’s home page⁴ also happens to have a Google PageRank of 8.⁵

Just as Lolly’s stewardship of that Web page has illuminated the contours of the copyright public domain for many thousands of anonymous visitors, Lolly’s painstaking work within the interstices of the copyright statute has clarified the opportunities and constraints facing libraries as they serve the public through the collection, preservation, archiving and dissemination of information. Section 108 itself⁶ provides a remarkably detailed—some might say tangled⁷—framework of exemptions and limitations in support of the core activities of libraries and archives, but a modern library must also avail itself of other statutory provisions such as the fair use doctrine of § 107,⁸ the first sale doctrine of § 109,⁹ and exemptions provided under the Digital Millennium Copyright Act.¹⁰

² See *When Works Pass Into the Public Domain*, <http://www.unc.edu/~unclng/public-d.htm> (last visited March 10, 2010).

³ See Google PageRank Checker, http://www.prchecker.info/check_page_rank.php (visited March 10, 2010).

⁴ See *Welcome to the New York Public Library*, <http://www.nypl.org> (visited March 10, 2010).

⁵ See Google PageRank Checker, *supra* note 3.

⁶ 17 U.S.C. § 108.

⁷ See Laura N. Gasaway, *Amending the Copyright Act for Libraries and Society: The Section 108 Study Group*, 70 ALB. L. REV. 1331 (2007) (describing § 108 as “poorly organized and confusing”).

⁸ 17 U.S.C. § 107.

⁹ 17 U.S.C. § 109.

¹⁰ 17 U.S.C. § 1201(d).

Furthermore, as *In re Hall* teaches, libraries play a crucial role in ensuring the public availability of patent prior art. In March 2002, Lolly had a hand in enriching the public domain to the tune of 11 million DNA sequences,¹¹ by ensuring that an enabling digital document¹² was properly indexed, catalogued and shelved in the University libraries and was therefore available to the interested public as a printed publication within the meaning of § 102(b) of the Patent Act.¹³

Over the course of Lolly's career, many of the institutions and activities that comprise the American public library system have evolved almost beyond recognition. During this transition to the age of globally accessible digital content, the technologies and economics of publication, distribution, storage, search and retrieval are disrupting the foundations of entire markets, industries and professions. As a national leader in copyright scholarship and the profession of librarianship, Lolly was the obvious choice to join Dick Rudick in co-chairing the § 108 Study Group and drafting balanced, workable recommendations to accommodate the core missions and activities of libraries and archives in the digital age.¹⁴

Lolly would also have been an obvious presenter on all four of the panels during the symposium, but graciously accepted an only slightly more limited role: presenting on one panel and commenting extensively on the other three. JOLT's editors are to be congratulated for arranging a program that so engagingly reflected the scholarly interests and contributions of its honoree.

¹¹ See Andrew Chin, *Artful Prior Art and the Quality of DNA Patents*, 57 ALA. L. REV. 975 (2006).

¹² See Andrew Chin, *On the Preparation and Utilization of Isolated and Purified Oligonucleotides* (Mar. 9, 2002) (CD-ROM on file with The Katherine R. Everett Law Library, University of North Carolina at Chapel Hill).

¹³ 35 U.S.C. § 102(b).

¹⁴ See *Section 108 Study Group Issues Report*, <http://www.loc.gov/today/pr/2008/08-063.html> (visited March 10, 2010).

The North Carolina Journal of Law & Technology Presents

**The Dean Laura N. Gasaway Tribute Symposium:
Digital Publications and Libraries**



March 19, 2010

1:00 p.m. – 6:00 p.m.

The Carolina Inn: John Sprunt Hill Grand Ballroom
Chapel Hill, North Carolina 27514