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Review of Rights in the Digital Era

Tammy Lau

California State University - Fresno, tammyl@csufresno.edu

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Review of *Rights in the Digital Era*

By Menzi L. Behrnd-Klodt and Christopher J. Prom, eds. Chicago: Society of American Archivists, 2015. 238 pp. Softcover. \$34.99. ISBN 978-1-931666-73-3

Rights in the Digital Era is the second book in SAA's Trends in Archives Practice series. Edited by Menzi Behrnd-Klodt and Christopher Prom, the book includes four modules ("Understanding Copyright Law," "Balancing Access and Privacy in Manuscript Collections," "Balancing Access and Privacy in the Records of Organizations," and "Managing Rights and Permissions") that can be read separately or together, as the series intended. The authors of each module are all experts in the field of copyright, intellectual property and rights management. All of them are archivists as well as attorneys, making them eminently qualified to explain this often maddening and complicated issue. The authors' extensive knowledge allows them to delve deeply into the topic in a most comprehensive and organized manner. While the authors do not shy from explaining the complexities and ambiguities inherent in rights issues, they also offer some practical strategies and frameworks upon which to base institutional decisions, depending on the tolerance for risk.

As practicing archivists, the authors are also able to explain how the differences in one's archival environment change the considerations relevant to rights. While useful to have an understanding of the whole landscape, most archivists will want to focus on what is most pertinent to their own situation.

Although the whole book is illuminating, what I found most valuable were the sample forms, templates and case studies in the appendices. An index would have been nice to allow readers to search for specific terms or topics although if you purchase the ebook or pdf versions of the book, you will be able to do keyword searching. The detailed table of contents for each module helps.

Module 4, Understanding Copyright Law, Heather Briston

Briston is the University Archivist at UCLA with a law degree focusing on intellectual property law. As such, her knowledge of the copyright law is both extensive and intensive. She takes the time to explain every aspect of the U.S. copyright law that affects archives, archivists and our researchers. No aspect has been left out and it behooves all of us to understand not just the basics such as duration of rights and fair use but layered rights, derivative works or compilations, licensing versus transfer, as well as international copyright and publicity rights. Briston also covers the different types of works and the kinds of rights that each engenders, such as with sound recordings, digital records and visual arts materials. What I found most useful in this module was the discussion on risk management, copyright audits, and

best practices guides, in particular the *Code of Best Practices in Fair Use for Academic and Research Libraries* by the Association of Research Libraries.

Module 5, Balancing Access and Privacy in Manuscript Collections, Menzi Behrnd-Klodt

Behrnd-Klodt is an attorney who specializes in intellectual property, licensing and contracts who also serves as a consultant, speaker and instructor on legal issues for archives, libraries, museums and government agencies. Her expertise in this area is formidable and her analysis of the right of privacy, confidentiality and human rights are eye-opening, even scary. Coupled with that, however, is a real-world discussion of what is reasonable and practical, with suggestions on how to balance access with sensitivity to the issue of privacy.

Module 6, Balancing Access and Privacy in the Records of Organizations, Menzi L. Behrnd-Klodt

Behrnd-Klodt also wrote this section on privacy in organizational records. For those of us who work in public or government institutions, her in-depth explanations of FOIA (Freedom of Information Act), FERPA (Family Educational Rights and Privacy Act), and HIPAA (Health Insurance Portability and Accountability Act) are most useful. After reading this chapter, you will understand exactly how these laws affect our work as well as what you can do if records in your repository are subpoenaed in a lawsuit.

Module 7, Managing Rights and Permissions, Aprille C. McKay

McKay is an archivist at the Bentley Historical Library at the University of Michigan who holds a JD from the University of Chicago and currently serves as the chair of SAA's Intellectual Property Working Group. Her module has the most "nuts and bolts" discussion of all the four modules and will provide the working archivist with the most useful information in our day-to-day work. She explains the different kinds of agreements typically used in archives and their consequences and brings together the threads of documenting privacy, privacy and moral rights. Her discussion of preservation versus distribution of born digital records is cogent and clear. She also explains how to embed rights information in EAD, DACS, ArchivesSpace and metadata. Her sidebar sections are also very useful and bring the discussions into the real world with examples taken from the Smithsonian, the University of Illinois, Princeton and the National Archives. She brings much-needed clarity to the issue of use versus reproduction fees with an extensive sample fee schedule for digital files from the New York Public Library. Most valuable are the sample permission forms and deed of gift she provides in the appendix.

While the four modules in this book can be read and used separately, there is a value to reading and using all four in tandem. The most practical and useful module is "Managing Rights and Permissions" but they are all valuable in explaining the sometimes incomprehensible realm of rights in our environment today. This book

will help you understand and balance the practicalities of use against the complexities of legal rights, in both the print and digital worlds.

Tammy Lau
*Head, Special Collections Research
Center
California State University, Fresno
Fresno, California*