

**"Copyright: Enabling Access or Creating Roadblocks for Libraries?"**

By Andrew Cranfield, EBLIDA Director

In Chisinau, Moldova, EBLIDA, IFLA and eIFL held its first joint conference at the Scientific Library of the Academy of Economic Studies from 13 to 14 November 2008. With the conference the three organizations aimed to bring speakers together with regional, European and international perspectives.

In his keynote speech, Fred Von Lohmann, Senior Staff Attorney at the Electronic Frontier Foundation gave an insight into the recent settlement between Google and the authors and book publishers regarding the Google project to scan and index books from a number of American libraries. As this settlement is so recent, it is probably too early to fully understand the implications of the settlement. However one thing is clear – access to the books that Google digitizes will be greatly improved, allowing for out-of-print books to be previewed (for some pages) and full text access at a fee. Rights holders can also opt in to the scheme for in-print works. There is little doubt that this settlement will speed up the whole process of digitization, but it will also give Google a very powerful position in relation to its competition, both commercial and non-commercial.

Naturally the settlement means that the case will not be brought to court – a process that could easily have taken a decade. Google was fighting its case under the American fair use doctrine and if they had been successful in this defense, the library community and its users as a whole would have benefitted from such an outcome. As it is only Google harvests the advantages of this settlement. Ever since Google started its digitization project, the long term implications for libraries have been unclear and with this latest development the future is no less so.

The second day of the conference had presentations from Denmark, Ireland, Moldova, The Ukraine, The USA and Chile. Even with presentations from so many different areas of the world it is quite clear that many of the challenges are similar. Kenny Crews, Copyright Advisory Office, Columbia University, has recently completed a study for WIPO (World Intellectual Property Organization) on copyright limitations for libraries and archives. Essentially exceptions and limitations are the basic framework of what libraries (and other non-commercial institutions) can do in a digital environment and a balanced set of rules complying with the three step test, which is still the benchmark, must be the goal nationally and internationally. Without mandatory exceptions the

library community will be weakened and contract negotiations will determine the level of access to material.

Advocacy work for libraries was also very much on the agenda, with both Teresa Hackett, eIFL, and Oleksiy Stolyarenko, Baker and McKenzie, giving useful information in this area and good advice on how to voice the opinions of the libraries in the environments where it matters.

I would also like to take this opportunity to thank our hosts in Moldova, not least Dr. Silvia Ghinculov, Director of the Scientific Library, and Mariana Harjevschi, Copyright Coordinator in Moldova, for their incredibly warm welcome to Moldova and their immaculate conference planning, which ensured such an excellent event.

**Third COMMUNIA Workshop "Marking the public domain: relinquishment & certification"**  
**Amsterdam, 20-21 October 2008**

By Carmen Morlon, EU Information Officer

About 70 participants attended the 3<sup>rd</sup> COMMUNIA workshop - co-organised by the Institute for Information Law (IViR), KnowledgeLand and Waag Society – on 20<sup>th</sup> and 21<sup>st</sup> of October in Amsterdam.

On Monday morning, Professor James Boyle (Centre for the Study of the Public Domain, Duke Law School, US) and Professor Bernt Hugenholtz (IViR) discussed the history of US and European copyright with the aim to defining divergence and convergence among the two philosophies in order to come upon the various definitions of the public domain (PD). Following public debate, the afternoon started with the introduction of CC legal tools and infrastructure for marking PD by Mike Linksvayer and Diane Peters from Creative Commons (CC). Lucie Guibault (IViR) chaired the session on "CC0: relinquishing rights in Europe" which focused on the questions raised by the current drafts of the CC0 waiver (under development), and in particular on the question of *non-waiverable* moral rights of authors in order to come across strategies that ensure - based on results of a CC International questionnaire - the viability of CC0 (and other such instruments) in European jurisdictions.

The subsequent session, chaired by Paul Keller (Knowledge Land), was dedicated to "Certifying PD works". Diane Peters gave the audience an update on the objectives of CC0, followed by a discussion on a draft (CC0 waiver) licence. It was agreed that a "workable" rather than a "perfect" tool was needed to determine and certify the PD status of works which are thought to be in

the PD. Participants raised questions on e.g. specific clauses such as limitation of liability, use of plain language and the correlation amid internationalisation and (level of) complexity. This session also included presentations on copyright registries and (Europeana) business models based on PD works, which highlighted the need to make digital copyright registries open and interoperable. As an initiative, Safe Creative and CC have launched a discussion group for open standards for copyright registry interoperability.

On Tuesday morning, we heard presentations from Antoine Aubert (Google) on access to Public Sector Information and the Google Books project, Harry Verwayen (Knowledgeland/Europeana) on the business model behind Europeana and Peter Gorgels (Rijksmuseum Amsterdam) on digital initiatives of the Rijksmuseum. Most questions raised by participants were as regards limitations and exceptions under the licensing conditions for those libraries (currently seven) participating in the *Google library* digitisation programme.

Prior to the meetings of the COMMUNIA Working Groups, Juan Carlos de Martin, COMMUNIA coordinator, announced the creation of a new Working Group on "Mapping the PD" (WG6), aimed at drafting a conceptual map of the PD and related actions and a Mission Statement, and a series of meetings to be held in 2009 e.g. European Broadcasting Union (EBU) in Geneva, 23 January 2009 on public broadcasting and PD; Open Knowledge Foundation in London (March/April 2009) on Public Sector Information and PD; UNITO-CODATA in Turin (June 2009) on Science and PD.

The full programme, presentations and photos can be found at <http://communia-project.eu/>.

The Working Group on Libraries, museums and archives (WG3, MEMORY), chaired by Lucie Guibault (IViR), had a rather productive meeting. Items discussed were the Green Paper on Copyright in the Knowledge Economy, the Public Domain (PD) Day initiative, ways to promote cc0 and ccREL (*Creative Commons Rights Expression Language* - a specification describing how license information may be described using RDF and how license information may be attached to works) and the creation and development of a bibliography on PD.

It was agreed to try to submit a COMMUNIA response to the European Commission's green paper on copyright. All members of COMMUNIA have been invited to post their comments (deadline 30 November).

The meeting launched the preparation of "Public Domain Day" on 1 January 2009 aimed at building up awareness of PD (not only of/to expired works) within the public as well as underlining the duration of copyright protection. It was suggested to begin with a list of 'Top Ten' at both European and national level. An URL within the COMMUNIA website would be launched at a later stage. As regards cc0 and ccREL, those present had no experience with these tools but were keen to 'spread the word' in trying to collect data on implementation. Please

do not hesitate to contact us if you have any ideas, comments or suggestions!

Lastly, Spanish colleagues from the Universitat Politecnica de Catalunya and Universitat de Barcelona announced their intention to present a joint proposal for a workshop on digital libraries and PD in Barcelona (October 2009). In this context, a question raised on what kind of information should appear in the field 'RIGHT' for PD works that would fit within Dublin Core (metadata).

A big thank you to the organisers for a very constructive workshop!

### **EBLIDA Executive Committee meets in Athens** By Andrew Cranfield, EBLIDA Director

The EBLIDA Executive Committee held its final meeting of 2008 in Athens on 3 and 4 November and gave EBLIDA the opportunity to meet with colleagues from the Greek library sector and to discuss issues of mutual interest.

EBLIDA President Gerald Leitner gave a presentation outlining the overall vision for EBLIDA, the commitment to work towards a library policy for Europe and the need to have a clearer picture of developments across the European Union in order to formulate a vision for the future of the library sector in Europe.

### **EBLIDA/LIBER Joint Expert Group on Digitisation and Online Access (JEGDO)** By Andrew Cranfield, EBLIDA Director

Members of the JEGDO met in London on 16 October to proceed with work on the issues of open access, web harvesting, legal deposit of digital material, national policies for digitization, digital library networks and set out a time frame for the formulation of briefing papers on these subjects and which will be available on the EBLIDA website by the end of January 2009.

The group also worked on a mission statement which will be approved in its final version at the next meeting of the EBLIDA Executive Committee.

The group believes that it is important for EBLIDA and LIBER to encourage its membership to advocate for national digitization strategies and to ensure that these are embedded in national library strategies. Funding for mass digitization is a major challenge and we believe that there should be opportunities to seek funding for such projects at the European level if the European Commission is really to achieve the goals of the i2010 initiative and to ensure the long term success of the *Europeana*.

To build on the success of the EBLIDA/LIBER Copenhagen conference in October 2007 some JEGDO members met with other representatives from the library sector to investigate the possibility of a follow-up conference in the autumn of 2009 and to see how much progress has been made in the field of European digitization activities in the period from 2007-2009.