The LLMC-Digital Newsletter
Issue No. 29: May 2008

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An Exemplary Tale from Maine

We are delighted to be able to report that the Hon. Matthew Dunlap, Secretary of State for Maine, has just approved a non-exclusive license to LLMC permitting us to offer state copyrighted volumes of the *Maine Supreme Court Reports* on *LLMC-Digital.* Using that license we can now offer Maine Reports Vol. 123-161, i.e., from 1924 to 1965.[1] We expect that these books will be scanned and mounted online before the end of the summer.

This happy development was brought about through the mediation of our colleague John Barden, the relatively-new State Law Librari-an for Maine. John is also working with other departments of the Maine State Government to free up additional Maine titles for LLMC scanning. All of us owe a debt of gratitude to John for his enterprise and perseverance both in Maine and elsewhere in obtaining materials to enrich our online service.[2]

It's likely that John would prefer that we skip the encomiums, but we are taking the liberty of calling attention to his work, both because he genuinely deserves thanks, and also for exemplary reasons. All across North Ameri-ca, in state after state, and province after pro-vince, there are instances of long runs of primary local legal materials that are mired in nominal copyright. In a majority of cases the state or province doesn't really expect to de-rive any monetary benefit from the copyrights, and probably would prefer to see its legal documents made more freely available. More often than not it's just that inertia rules. No-body quite knows who should be asked or how they should be approached to get a favor-able copyright-release decision.

We at LLMC have discovered through long practice that such requests usually founder or just get lost when directed from way out here in the Pacific. We simply lack the local con-tacts that are needed to facilitate these kinds of friendly approaches. So this is an area where our members are in a far better position to size up their local situations. If there are primary materials from your state or province that are not being offered on *LLMC-Digital* due to government copyright, why not give it a look? Is there someone in your circle of profess-ional acquaintances who could facilitate an application to the right decision maker? If you can help make the introduction, we here at LLMC will be happy to follow through with all of the appropriate paperwork. Working together we could help make *LLMC-Digital* a much richer resource for all of our patrons.

LLMC Partnership With VLEX

VLEX is the North American incorporation of a major online provider of legal and govern-ance-related information. Its headquarters are in Barcelona, Spain. To date its principal mar-kets have been in Spain and Latin American, where it was once known as derecho.org and is now dubbed vLex. VLEX currently offers legal content from 66 publishers in 10 coun-tries and has a user interface capable of oper-ating in 10 languages including (besides the obvious Basque and Catalan) French, Ger-man, Portuguese and Chinese. Its primary market is comprised of professionals who need legal information, and it has a strong presence in Latin American law schools.[3]

For the bulk of its online offerings VLEX serves as an aggregator and delivery vehicle for content generated by others. This is where the opportunity exists for a partnership be-tween them and us. We have now signed a preliminary agreement under which a select batch of LLMC titles[4] will soon be offered on VLEX on a pay-per-document basis, with LLMC receiving a portion of the fee. LLMC will retain ultimate ownership and control of its content, and the agreement could be ended at any time if that proved advisable. So the present relationship should be regarded as experimental on both sides.

A minor expectation from the agreement is that it may result in a modest income stream to LLMC; which will, of course, aid in our work. However, the more important payoff, should it develop, is that exposure to some LLMC offerings may induce some foreign academic institutions or law firms to subscribe to the *LLMC-Digital* full service. It was pri-marily this "directional" attribute that moti-vated our willingness to explore this joint activity.

Partnership With Public.Resource.org

The last few months have also seen the begin-nings of a different sort of relationship be-tween LLMC and a fellow non-profit organi-zation called Public.Resource.org. To quote from its web site: "Public.Resource.Org is a new non-profit dedicated to the creation of public works projects on the Internet. Our ini-tial area of focus is increasing the flow of information in both directions between the U.S. government and people. Our founders are Carl Malamud and Marshall T. Rose. Our board of directors include Randy Bush and Hal R. Varian. Additional information about our legal structure is contained in our Articles of Incorporation and Bylaws" (available on our web site).[5]

The initial LLMC and Public.Resource.Org project involves LLMC's digital copy of the *Federal Reporter,* 1st Series. We scanned this title (except for the last few volumes still in copyright) some years ago and have offered it on *LLMC-Digital* for some time. Public. Resource.Org asked if it could buy a copy of our images for free presentation to the general public on its web site. At first the idea took some getting used to. Would this diminish the unique character of LLMC's package of offer-ings? Might it adversely affect our subscrip-tion base? If we were disposed to do it, how could we value the sale?

After careful consideration and consultation with the appropriate Board members, the LLMC administration decided that, in fact, a deal would make sense for both sides. In the first place, Public.Resource.Org could always find some other way to digitize these public-domain materials, so exclusivity is not in question. Second, LLMC itself, as a standin for its constituent libraries, has an interest in promoting as much free public access to pri-mary legal information as it can afford. The only real question was whether cooperation between the parties could create a win-win situation. We are confident that the final agreement carries rewards for both parties. Public. Resource.Org benefits because, even though it agreed to reimburse LLMC for roughly its costs of producing the images in question, that is less than it would cost to have the images created at

current rates in the com-mercial sector. LLMC benefits because, while it retains its own copy of Fed.1 on *LLMC-Digital,* it has recovered the money used to create that title and can reuse it to digitize an equivalent quantum of material.

Public.Resource.Org carries out its mission by soliciting funds from foundations interested in its specific public service goals. Some of these sources of assistance probably would not be available to LLMC directly, but could be of great help to us via this indirect approach. Now that a mutually agreeable method of co-operation between the two organizations has been established, both sides are eager to ex-pand the program. LLMC has prepared and priced a much wider list of its titles in the U.S. Federal area. For his part, Mr. Malamud has committed himself to a much wider fund-raising effort among his backers.

In addition to cooperation through the sharing of images, the partnership between LLMC and Public.Resource.Org could end up providing less tangible benefits also. The people behind Public.Resource.Org have deep connections and long experience in the Silicone Valley community. They have begun playing with alternative methods of manipulating and ac-cessing our data, and are prepared to share the results of those experiments if that would prove mutually beneficial. For its part LLMC has also committed to sharing its expertise. Stay tuned. This could be fun.

Update on the New Interface Project

In the last *Newsletter*[6] we described how our long effort to develop an improved interface for LLMC-Digital was possibly coming to a conclusion. At that time the thought was that the final evaluation of the prototype interface being developed for us by National Business Systems (NBS) of Egan, Minnesota, might be conducted by the members of the LLMC Ad-visory Council. However, upon reflection the Executive Committee of the LLMC Board decided that, given the limited amount of time available and the size of the Council, changing the method of evaluation mid-stream might prove unwieldy. In addition, they were loath to lose the accumulated expertise of the members of the Interface Review Committee (ICC) who had conducted the two previous reviews. So it was decided to stick with the tried and true. Executive Director Kathleen Richman was given the task of persuading the intrepid members of the ICC to give it one more round. Fortunately for the rest of us, they all graciously agreed.

That last review process is now underway. The ICC is expected to come in with its final report by mid-June. Armed with that infor-mation and informed by the Committee's expertise, the LLMC Board is expected to make its final decision on whether to adopt the NBS interface in time for a formal announce-ment at the LLMC General Membership Meeting held during the AALL convention in Portland.

While the ICC committee members were listed in the last *Newsletter,* the fact that they were willing to take on yet a third review of the NBS prototype for the benefit of the Board is such a great favor to all of us that they merit repetition below.[7] If any reader lives near, or runs into Barbara, Linda, Dan, Michael, Jeanne, Cheryl or Rob in the near future, please do convey the appreciation of us all for their magnificent contribution to our common effort.

Update on the Records and Briefs Projects

The last Newsletter[8] also described an emerg-ing project with the Google Corporation. While some of the details of that project involve proprietary information, we have been authorized to reveal that the enterprise is still on track and that we are in the final stages of negotiating a workable contract. The goal on both sides is to have something definite

to announce on this project at or before our AALL meeting.

One significant detail that has changed since this matter was discussed in the February *Newsletter* is the likely target of the first LLMC/Google scanning. In February we thought that this would be the California Records and Briefs collection held by the Los Angeles County Law Library (LAC). How-ever, for a number of logistical and technical reasons that library's administration has decided that it would rather stick with the original plan of having its materials scanned in-house with LLMC equipment and other technical backup. Various technical details are still being ironed out, but some of the equipment has already been purchased and production protocols are being developed. So we have good reason to hope that this project can begin this summer.

The focus of the initial LLMC/Google effort will therefore shift to the next big target on our list, the collection of New York Records and Briefs, numbering roughly 47,000 vol-umes, held by the Library of the Association of the Bar of the City of New York (ABCNY). These include the materials for the New York Court of Appeals and also the four New York Appellate Division series. Since the ABCNY administration already has given its consent to this endeavor and is anxious to see it started quickly, we anticipate that, once the last contractual details are worked out between Google and LLMC, the project can begin soon thereafter. All sides would like to see this great body of material being made available before the end of this calendar year.

More on the Digital Ownership Question

In late 2006 we used space in this Newsletter[9] to address a somewhat frequently expressed concern from members about "ownership" of the digital materials to which they subscribed. In that piece we expressed the belief that some of the "ownership" models being presented to libraries were more fanciful than real, and that in some cases they were a bad economic bar-gain to boot. A recent article in Spectrum by Simon Canick[10] covers much the same ground as we did, although perhaps more clearly and convincingly.

Remembering Roy Mersky

Everybody in our profession was shocked by the recent sudden death of Prof. Roy Mersky, Dir. of the Univ. of Texas Law Library and a giant in law librarianship. Roy's long list of accomplishments will, no doubt, be celebrated in many more appropriate forums. We don't want to risk belittling them by attempting a summary in the short space available here. However, a word recording Roy's strong support of the *LLMC-Digital* project and his plans to contribute to our effort is certainly in order. From the beginning Roy made it clear that he considered the creation of an inde-pendent voice for law librarians within the digital universe was, as he repeatedly put it, the "right thing for us to do." But he wanted to go further than that. He was particularly at-tracted to the LLMC extern-scanner program, volunteering his library's unique rare book collection as a special target for scanning. Every time he met our Content Manager, he would ask once again where UT stood on our priority list. Unfortunately, our modest financ-ing prevented accelerating the extern-scanner program sufficiently to achieve a UT installa-tion in time for him to enjoy it. But we'll get there some day, and, as a worthy way to celebrate his memory, we'll know that it was "right thing for us to do."

[1] The reason for stopping at 1965 initially is that the State of Maine only holds the copyright for the hardcopy published opinions up to that year. Sub-sequent reports of the Maine Supreme Court were officially reported only in the *Atlantic Reporter,* 2nd Series. However, our colleagues in Maine hope to assemble a complete run of Maine slip opinions that could serve as a workaround to bring the *LLMC-Digital* run of *Maine Reports* complete-ly up to date. If those later opinions become available, LLMC will scan and offer them also.

[2] John's prior professional posting was at the Uni-versity of Richmond, where he served as a major spark in organizing Virginia librarians to assemble an exceptionally rich batch of gift Virginia materials for LLMC hi-speed scanning.

[3] For more on VLEX and its service see both http://vlex.com/corporate/company & vlex.com

[4] Most of the initial batch of titles involved are U.S. Federal court and agency reports. It is an underlying assumption of the agreement that this list will be expanded if the initial experiment proves promising; although it is not expected that the quantum of LLMC content offered on VLEX will ever rise to even as much as 20% of LLMC's total offerings. The goal is not to replace *LLMC-Digital,* but rather to put enough "teasers" out there to possibly contribute to growing our own service.

[5] See http://public.resource.org/ While the princi-pal goal of Public.Resource.Org is to provide a vehicle whereby government information can be made freely available on the web, it also conceives its proper role as including a strong element of ad-vocacy against what it perceives as inappropriate barriers to public access to government-generated information. Along those lines it is currently engaged in a cutting edge suit against the State of Oregon contesting that state's attempt to copyright its more recent statutory revisions. That effort is described on the web site as follows: "A joint declaratory judgment action by Justia, Inc. and Public.Resource.Org will seek clarification from the courts as to the public domain or copyright sta-tus of the 2005 and 2007 Oregon Revised Statutes in particular and local, state, and federal cases and codes in general. The action presents the courts with a real dispute and seeks clarification as to whether the state may assert copyright over the law. In particular, we contend that the pasting of a private wrapper on a public domain package in a transparent attempt to protect a revenue stream is against public policy and is against the law. Furthermore, even if such a private wrapper were to be permitted in certain cases and under limited circumstances for clearly creative work by private corporations such as, e.g., the Disney Corporation or Thomson West, the Honorable Legislative Counsel of the Great State of Oregon is such an integral part of the law-making process that in no case may it assert such a copyright." LLMC has learned that a presentation concerning this case is being seriously considered for the Hot Topic Program that has become a traditional offering on late Monday afternoon at the AALL convention.

[6] See../Newsletter/Issue%2028bfebruary_2008.asp, pp. 1-2.

[7] The Interface Critique Commitee members are: Barbara Garavaglia, Ch.Ref.Libn. U.Mich.L.L. (Chair); Linda Corbelli, ResearchLibn., U.S.Sup. Ct.Lib.; Dan Giancaterino, InternetLibn., Jenkins

Mem.L.L ; Mike Hannon, Asso.Dir., U.Minn.L.L.; & Cheryl Nyberg , Ref.Libn., U.Wash.L.L.; & Jeanne Price, Asso.Dir., U.Texas L.L.; & Rob Richards, Ch.Ref.Libn., Drexel U.L.L.

[8] See../Newsletter/Issue%2028bfebruary_2008.asp, pp. 2-3
[9] See../Newsletter/Issue22_November_2006.asp, pp. 3-4
[10] See Spectrum, V.12, No. 4, Feb. 2008, p. 30-33