Copyright & Digitization Considerations for Onondaga Community College's LP Collection

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Introduction

Progressive advances in media technology effectively strand untold collections of resources in obsolete formats. If these valuable resources are to be used by future generations of scholars, they must be migrated into new formats while the requisite playback equipment is still readily available. However, in order for reformatted resources to be usable, the conditions of their use must consider copyright restrictions and fair use allowances.

Onondaga Community College's (OCC) Coulter Library holds a rich collection of music and spoken word recordings on long playing vinyl records. In order to ensure that these materials can be utilized by students, these recordings had to be transferred to digital formats. Considering the goal of making the recordings available to students via a streaming server, I have selected for digitization records fitting the criteria for fair use.

Selection

Having previously contacted Smithsonian-Folkways and the Library of Congress to obtain permission to digitize recordings from their catalogs, OCC was denied permission from the former and granted permission from the latter. Smithsonian-Folkways recordings were consequently removed from consideration for digitization, while Library of Congress recordings were considered as candidates for digitization without any further research into availability.

The majority of the remaining sound recordings were published by Caedmon Records and Spoken Arts, both of which are no longer operating as independent record labels. Caedmon is now owned by HarperCollins Publishers, while Spoken Arts has shifted its focus to providing educational materials. Owing to these developments, I selected recordings as candidates for digitization on the basis of their ability in digital form, as per the fair use considerations for the Four Factors outlined below.

Factor One: The Purpose and Character of Use

The use of the digitized recordings will be of educational value for the students and faculty of OCC and will be delivered via a streaming server. Use will be restricted to the OCC campus community, as users will need to login using their OCC ID and password. This will ensure that the recordings are used for educational purposes and prevent further duplication and dissemination of copyrighted material.

Factor Two: The Nature of the Copyrighted Work

Long playing 33-⅓ RPM vinyl records serve as the source material for these recordings. The majority of users lack the playback equipment to listen to this material—as such it is effectively an obsolete format and the material is inaccessible to students in its current form.

Factor Three: The Amount and Substantiality of the Portion Taken

While the entirety of recordings have been digitized, the recordings typically only constitutes excerpts of the written work source material. Furthermore, use could be restricted to further limit the amount available to students.

Factor Four: The Effect of the Use upon the Potential Market

Since candidates for digitization were selected on the basis of the unavailability of digital copies in the marketplace, I have determined that the use of these materials does not harm the market. I searched for digital copies of these recording in the following online marketplaces: Amazon, Audible, Audiobooks.com, Google Play Music, iTunes, and Spotify. If there was evidence that all or part of the recording was available, I disqualified the item.

Recommendations for Strengthening Fair Use Considerations

While a strong claim for offering these recordings to students under fair use has been outlined above, the following considerations will strengthen OCC's case:

- Offering portions of recordings, rather than their entirety will strengthen the case for fair use.
- A small number of music recordings were digitized outside of the Library of Congress recordings--these should only be used as archival copies since fair use for music is more heavily restricted under Section 108 of the US Copyright Act.[1] This specifically affects the albums of Iroquois Social Dance Songs and Five Centuries of French Guitar Music.
- Under the TEACH Act, materials that would normally be used in the classroom, can be delivered digitally to online students under fair use under Section 110 of the US Copyright Act.[2]

Digitization

In digitizing the items that qualified, I produced raw project files in Audacity (version 2.0.6) at a sample rate of 44100 Hz, generally recording spoken word in mono and music in

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[1] Kenneth D. Crews, *Copyright Law for Librarians and Educators: Creative Strategies and Practical Solutions* (Chicago: American Library Association, 2006), 88.

[2] Ibid., 62.

stereo. Records were played on an Audio-Technica AT-PL120 turntable, via a RCA to ⅛" adaptor directly into the microphone jack of laptop. Recording volume was adjusted to maintain the best possible signal-to-noise ratio--although some of the records were made from very poor source recordings (some were originally recorded on cylinders or transferred from 78 RPM discs). Each record was cleaned using a "discwasher" microfiber brush before playback.

The vast majority of recordings are of impressive quality considering their age, however, there are naturally some skips, static, hums, pops, and clicks. Given the choice between spending time cleaning up the recordings and digitizing more of the collection, I chose quantity over quality. As such, I was able to digitize all records that qualified under the conditions detailed above. The recordings are virtually untouched—the imperfections remain in the digitized recordings and serve more as texture than as distractions. In rare occasions, I used Audacity's click remover and noise removal tools to eliminate especially bad clicks or background noise.

The use of two laptops (one provided by OCC and the other my personal laptop) in the digitization process was key to maintaining efficiency, as only one instance of Audacity can be active on a single PC. I would typically be recording on one laptop, while using the other to process the recordings.

After digitizing all sides of an album, I used Audacity's labeling feature to split the recording into separate tracks. I typically used the listing from the back of the record sleeve as the source for track titles. However, some were misprinted or ambiguous—requiring some careful listening and referencing any additional material included in the record. Occasionally single bands on the record included multiple distinct songs or tracks, in these cases I determined that splitting the record into more granular divisions would be more useful to the user. As such the track listing of the digitized files does not always match the listing from the record sleeve. Another common problem resulted from spoken word or songs in languages other than English, in which cases I split the tracks to the best of my understanding.

Once the recording was split into constituent tracks, I used the "export multiple" feature in Audacity to produce MP3 files in variable bitrate (VBR) level 0. VBR compresses the file in such a way so as to allow higher bitrates during complex segments and lower bitrates during segments of lower complexity; level 0 is the best quality of VBR offered by Audacity.

Filenames and paths were organized in the following manner:

[Artist or Series]\[Album Title]\[Side][Track Number for that Side]-[Track Title].mp3

Examples: James Dickey\Reading His Poetry\B02-For the Last Wolverine.mp3
                     Folk Music of the United States\Sioux\A07-Hand Game Song.mp3

I entered additional metadata using MediaMonkey software, which also assisted with the renaming of tracks. All tracks produced have ID3v2 tags including the following metadata elements: track title, artists (if available), album title, and track number. For tracks that had additional information available on the album sleeve, I have also included information about

conductors, recorders, editors, instrumentation, and date of recording in the comment field. Since the value of these fields occurred to me after I had begun to process the files, some early recordings do not include these additional details.

After I finished digitizing the records, I did a basic audit of metadata and checked that all files were present and accounted for. The final count on digitization is 1,454 tracks; 6.7 GB of files; 79 hours, 29 minutes, and 15 seconds of recordings; 101 albums—all completed during the course of a 150 hour internship.

Collection Highlights

The spoken word albums would be of special interest to students of English literature, as hearing novelists and poets read their own work has the effect of revealing the intended emotion behind their words. While the majority of such recordings offer relatively straight-forward readings of the work, a few offer some higher production values. Isaac Asimov's reading of *The Mule* features some sci-fi sound effects that help to draw listeners into Asimov's thick Brooklyn accent.

Several of the Caedmon recordings offer autobiographical insight into authors. Most prominently, EE Cummings's series of "nonlectures" offers a fascinating, if idiosyncratic window into the poet's past and vision of himself. Anais Nin reading selections from her autobiography imparts a nuance that would be unavailable in the written word.

A number of the spoken word albums feature notable authors reading in foreign languages, including Thomas Mann reading in German, Jean Cocteau and Albert Camus reading in French, and Juan Ramon Jimenez reading in Spanish. These recordings could be useful for foreign language courses that may be reading from these authors or simply looking for additional opportunities for language immersion.

The repetition of themes and songs across these recordings could lead to interesting studies and exercises. Many of the Native American recordings share similar elements and dances--it would be interesting to compare, for example, the various forms of the Ghost Dance, Moccasin Dance, peyote songs, and other common social rituals. The *Versions and Variations of Barbara Allen* album offers repetition within a single album, as each performer has a slightly different take on this traditional English ballad.

In a similar vein to the value of repetition across or within recordings, a comparison could be made between various religious songs. The Library of Congress recordings include several albums of religious music, including congregational music from both African-American and white practitioners, religious songs sung by inmates, and even several examples of Native American Christian hymns.

Many of the Library of Congress recordings are as notable for editors and recorders as for the performers featured on the recordings. Many of the earlier records were produced by John A. Lomax, Alan Lomax, and Charles Seeger--all of whom were noted ethnomusicologists. Their curatorial decisions bear significant impacts on the recordings--for example, Alan Lomax's inclusion of an African-American field holler on an album of "Anglo-American Ballads" betrays

his interest in promoting African-American music as being on equal footing to the English tradition.

Further Recommendations

Beyond the digitized recordings, this collection includes a number of peripheral elements that would be beneficial to users if possible. For one, many of the records have beautiful artwork on the covers—especially Caedmon releases. If at all possible, it would be nice to photograph the covers and present them alongside the recordings in the streaming server. Additionally, most of the Library of Congress recordings have corresponding booklets that include a lot of information regarding the collections and their context. Most of these are available via their website: http://www.loc.gov/folklife/LP/linernotes.html. These would also be beneficial to users, and could potentially be included as a link from the streaming server.

Contact Information

If any questions arise regarding this collection, I can be reached via email: ryan.t.perry@gmail.com or phone: 607.423.4522.

Appendix: Email from Library of Congress

-----Original Message-----

From: AskALibrarian@oclc.org [mailto:AskALibrarian@oclc.org] On Behalf Of folklife@loc.gov

Sent: Wednesday, April 30, 2014 9:35 AM

To: Weiler,Angela

Subject: Library Question - Answer [Question #9541369]

Hello Angela Weiler

Hi Angela,

My understanding of fair use mirrors yours. You may make them available to your students electronically. The caveat is that the electronic use is limited to your college community--if they are placed on your website, it can't be a website available to the general public. That would constitute a republication and move beyond fair use.

Does this make sense?

You can like to the LP liner notes from our website < http://www.loc.gov/folklife/folkcat.html >.

Best,

Todd

Please take a moment to fill out a survey at: <
http://www.questionpoint.org/crs/servlet/org.oclc.ask.PatronSurveyForm?&language=1&type=ask&qid=9541369 >

Question History:

Patron: I am a librarian at a community college library. Our library owns a number of Library of Congress lp recordings of songs of indigenous peoples dating from the early 1950s. I know that much U.S. government information that was created by government employees is in the public domain, but I also know that these recordings were not made by L.O.C. employess. Can we digitize these recordings to make the songs available to our students?

I believe this would fall under fair use, as the use would be educational, would not affect the market for these works (which is minimal), and the content is factual as opposed to creative.