Luna, Ashley

Copyright

1. Some personal letters written by Mr. Walter Packard to Mrs. Carrie Stevens dated

during the year 1900. The personal letter described an outing that they had taken with a group of

friends. Both parties are deceased.

Since the letters are of a personal nature, there could be issues of privacy from Mr Packard’s estate if digitalized. The writer of these letters is the copyright holder, not the person who receives the letter, so Carrie Stevens dose not own any copyright from these letters (U.S Copyright Office). Since Mr. Packard is deceased, Copyright belongs to his estate, despite who owns the letters now (Texas Archeological Research Laboratory, 2006). In this situation it is important to find out the author’s exact dates of death because this affects copyright. According to the U.S. Copyright Office if the author died before 1933 and if it was not published at some point before 2002, the work is in the public domain (17 U.S. Code § 303) There is no exact date of death, so it is difficult to decide if these letters are within the public domain. It is very possible that Mr. Packard died after 1933, so copyright would last through the lifetime of the author plus 70 years. The extra 70 years is from the 1976 Copyright Act and the 1998 Sonny Bono Copyright Term Extension Act.

If the letters are in danger of deterioration, the archive could look into Title 17 U.S Code §108. This allows archives to keep copies for preservation and research purposes. If digitalization is pursued the digital copies have to only be available from the premises of the archive or library. I would advise my institution to go ahead and digitalize, as long as the letters are only made available to researchers within our premises and that there is a copyright notification. There is still the danger of Mr. Packard’s estate claiming copyright. Another alternative is to contact his estate and request permission for digitalization. Time and resources would be needed to locate Mr. Packard’s current estate, but if the letters are significant, then the time would be worth the legal troubles. If his current estate is unreachable, it is important to keep track of attempts made to secure permission because it is possible that his estate owns the copyright of his letters.

2. A book with the following citation:

Hall, F. (1871). The history of San José and surroundings: with biographical sketches of early

settlers. San Francisco: Printing house of A.L. Bancroft and Company no. 721 Market Street

This book is in the public domain because it was published before 1923 (Hirtle). It’s copyright is expired so permission is not needed to digitalize.

3. Some photographs of J.J Owen (1827-1884?) that contain no dates and no information on who

took the photographs.

Without any identification information of the photographer, this material is anonymous. Anonymous works are copyrighted for 120 years from date of creation (17 U.S. Code § 302 C).

Since there is no date of creation, we can use the date range of J.J Owen to establish a time frame. So 120 years after 1884 is 2004-2005. These date are estimation, so digitalization is possible, but there is a small risk that these dates are off. In this situation Title 17 U.S Code 108 can justify digitalization because it is for preservation and research purposes.

References

Hirtle, Peter. When Works Pass Into Public Domain in the United States: Copyright Term for Archivists and Librarians. Cornell Copyright Information Center. http://copyright.cornell.edu/resources/publicdomain.cfm

Texas Archeological Research Laboratory, The University of Texas at Austin (2006). Copyright Law and What It Means. <http://www.utexas.edu/research/tarl/curation/ownership.php#owner>

U.S. Code: Title 17

U.S. Copyright Office, *Circular 1: Copyright Basics*. http://www.copyright.gov/circs/circ1.pdf