

An Analysis of Copyright Policies and Service Practice Research for Special Collections in American University Libraries: Postprint

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Abstract

[Purpose/Significance] By analyzing research findings on copyright policies and services for special collection resources in U.S. libraries, this study summarizes the experiences of U.S. libraries in copyright policy formulation and service provision, and derives implications for the development of copyright policies and services for special collection resources in Chinese libraries. [Method/Process] Through interviews and questionnaires with copyright librarians at U.S. academic libraries, combined with detailed analysis and synthesis of the research findings, this study aims to extract applicable experiences for formulating copyright policies suited to China's national context. [Results/Conclusion] First, specialized copyright management institutions should be established, primarily including the creation of copyright-related positions and functional departments, formulation of copyright policy documents, emphasis on the promotion and study of such documents, and attention to four key approaches: fair use and disclaimer statements. Second, work procedures should be systematized, with proposed workflows for copyright services, copyright verification processes for incoming special collection resources, and copyright handling processes for special collection materials. Finally, external partnerships should be pursued, actively engaging in the establishment of university intellectual property information service centers.

Full Text

Preamble

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Research on Copyright Policy Analysis and Service Practice of Special Collections in American University Libraries

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Abstract: [Purpose/Significance] This study analyzes the copyright policies and services for special collections in American libraries through investigation, summarizing experiences in policy formulation and service delivery to provide insights for developing similar initiatives in Chinese libraries. [Method/Process] Through interviews and questionnaires with copyright librarians at American university libraries, this research examines current practices to inform the development of copyright policies appropriate for China's context. [Result/Conclusion] First, libraries should establish professional copyright management institutions, including dedicated positions and functional departments, formulate copyright policy documents, emphasize promotion and training of these policies, and prioritize fair use and disclaimers. Second, workflows should be streamlined, including processes for copyright services, copyright verification for incoming special collections, and copyright management of special collections. Finally, libraries should seek external partnerships and actively respond to the construction of university intellectual property information service centers.

Keywords: American university library; special collections; characteristic database; copyright policy; copyright service

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Introduction

In an era of severe homogenization of library collections, leveraging special collections to deliver knowledge services can enhance a library's core competitiveness. Special collections represent valuable educational resources that embody a library's cultural heritage. In the big data era, strengthening special collections development not only preserves institutional distinctiveness but also improves research capacity and meets new era demands.

Copyright protection is inextricably linked to library operations. While fulfilling their service missions, libraries must also implement standardized institutional management and build harmonious libraries from a copyright protection perspective. As special collections development accelerates, copyright issues become increasingly serious. What is the current status of copyright needs in special collections? What role should Chinese libraries play in addressing these issues, and how can they effectively contribute?

Based on these questions, this study investigates copyright policies and service practices for special collections in American libraries, combined with the actual needs of Chinese university librarians, to explore implications and recommendations for Chinese libraries, develop reasonable copyright service workflows, and propose models suitable for Chinese library contexts.

1. Literature Review

The rise of special collections development brings escalating copyright challenges. Copyright disputes involving characteristic databases and self-built databases developed from library special collections are increasing, suggesting that copyright issues will become the most frequent and difficult problems to resolve. How to avoid potential infringement is a key consideration for libraries when formulating copyright policies and providing services.

1.1 Domestic Research Status

To understand the domestic situation regarding special collections, the authors conducted a CNKI search on March 18, 2019, using the query: TI='library' AND SU=('special collection'+ 'featured collection'+ 'featured database'+ 'special resources'+ 'self-built database') AND SU=('copyright'+ 'intellectual property'). This yielded 95 articles, including 6 dissertations. These dissertations primarily surveyed domestic status without reviewing foreign literature, and none focused specifically on special collections copyright. Chinese research on special collections copyright began in 2003, with peak publication years in 2009 (13 articles) and 2011 (11 articles). The lowest output was in 2006 with only 1 article, indicating that domestic research in this area is still in its early stages with fluctuating output and insufficient systematic study.

After reviewing the literature, domestic research can be summarized in three aspects:

1.1.1 Special Collections Development Direction

University library special collections development should integrate three elements: institutional characteristics, local cultural features, and key disciplinary areas that reflect the university's academic level. Cheng Huanwen argues that libraries like Sun Yat-sen University should explore theories and technologies for ancient book preservation based on institutional strengths and prioritize special collections development. E Lijun suggests libraries should emphasize local special collections, integrate regional resources, and digitize valuable materials to improve utilization and local cultural influence.

1.1.2 Special Collections Digitization

Digitizing special collections is an inevitable requirement for modern library informatization, digitalization, and networking, as evidenced by the rise of characteristic and self-built databases. Liu Qin views digitization as an essential trend for the information age.

1.1.3 Copyright Policy and Service Status

Chinese university libraries' copyright services for special collections currently cannot meet development requirements and need continuous improvement. Chen Yan notes that higher digitization levels lead to more frequent copyright issues. However, research by Zhu Ning and Chang Yanfeng shows that most Chinese libraries' regulations for special collections remain limited to reading

room rules, lacking systems for reproduction or publication permissions.

1.2 Foreign Literature Review

A Web of Science search on March 18, 2019, using the query: TI=library AND TS=(special collections OR featured database OR characteristic database OR special resources OR self-built database) AND TS=(copyright OR intellectual property) yielded 33 records. A Scopus search using: TITLE(library) AND ABS('special collections' OR 'featured database' OR 'characteristic database' OR 'special resources' OR 'self-built database') AND ABS('copyright' OR 'intellectual property') yielded 16 records.

D.K. Butler's research elaborates on the relationship between special collections and copyright, detailing the foundation and origins of copyright principles in the United States. S. Davis-Kahl and M. Hensley argue that subject librarians must incorporate copyright law knowledge and service experience into their professional development. M.W. Olaka and D. Adkins emphasize the imperative of improving academic librarians' copyright law knowledge.

Regarding fair use principles, F.O. Afori contends that exceptions and limitations in copyright law are designed to increase public interest. D.H. Charbonneau and M. Prieks' survey found that American university libraries are increasingly involved in copyright issues and should address them through four approaches: policy formulation, policy learning, staff training, and campus copyright collaboration. J.F. Cheverie interviewed copyright specialists at U.S. higher education institutions, explored stakeholder positions on copyright issues, and concluded that library copyright issues warrant in-depth research.

2. Investigation of American Library Copyright Policies and Services

The investigation consisted of two parts: first, interviews with librarians at the University of California, Berkeley (UCB) to understand current copyright issues in special collections; second, a questionnaire survey of American library copyright librarians based on interview findings, with results analyzed and summarized.

2.1 Interview with UCB Copyright Librarian

From June to September 2018, the authors interviewed R.G. Samberg, UCB's copyright librarian, who is an expert in library copyright services with comprehensive knowledge of UCB's copyright policies—making her an ideal interview subject. After several exchanges, she graciously accepted. The interview content was transcribed and translated in detail, though limitations may remain despite best efforts. The discussion focused on copyright policies regarding donated materials, public domain issues, other legal considerations, and support

for researchers using special collections, plus brief introductions to text and data mining and service frequency.

2.1.1 Copyright Determination for Donated Materials

First, it is essential to clarify whether donors hold copyright before materials enter the collection. Copyright does not transfer with physical transactions. With network development, libraries digitize these materials and upload them to platforms, requiring clarification of three issues: Does the donor hold copyright? Has copyright transferred? Does the library have usage licenses?

Second, gift agreements present challenges. Some donors believe they have the right to grant libraries permission to digitize special collections, when in fact they may not. When donating, does the donor transfer copyright to the library or merely grant usage permission? With only a license, copyright remains with the donor, restricting use to specified scopes. Some special collections can be digitized under Creative Commons licenses. Additionally, libraries must verify licenses for past donations, as some may be outdated or expired, while others lack any usage license. Libraries must categorize these resources: those without clear copyright must halt digitization projects, while those with proper licenses can be digitized and uploaded for researcher access.

Finally, quoted content within special collections belongs to third parties. Even if donors transfer copyright, copyright librarians must identify actual rights holders (e.g., when manuscripts quote other works).

2.1.2 Public Domain Issues in Special Collections

Determining whether special collections are in the public domain is extremely complex. Public domain status means anyone can use the resources without permission, allowing libraries to digitize freely. However, for copyright librarians, this determination is difficult, particularly for works published outside the United States, which requires considering both U.S. law and the laws of the country of origin. For works published in China, Chinese copyright law must be examined for differences from U.S. law. Due to limited resources, libraries sometimes must rely on experience and risk assessment rather than case-by-case review.

2.1.3 Other Legal Issues in Special Collections

As noted, special collections usage involves numerous legal issues beyond copyright, including privacy rights. Do materials contain sensitive political information? Do they involve portrait rights? For example, UCB holds photographs from Japanese internment camps during WWII showing children. In such cases, libraries must first identify the photographer: if an individual, the photos are privately owned and subject to privacy laws, but libraries may use images within licensed scopes; if the federal government took them, they are in the public domain, though libraries must still consider privacy and cultural sensitivity before digitization.

Thus, copyright offices address not only copyright but also these complex non-copyright issues.

2.1.4 Supporting Researchers Using Special Collections

Researchers using special collections fall into two categories: those using the library's own collections (physical or digital) seeking copyright assistance, and those using external collections seeking help.

When researchers use the library's physical or digital special collections, two scenarios exist: (1) the resource is copyrighted but the library holds a license, enabling support; (2) the resource is protected but the library lacks a license, and researchers intend to use it in publications. In the latter case, libraries cannot provide permission but can explain fair use principles. However, Samberg noted that finding the boundary between fair and unfair use is highly challenging.

For researchers using non-library special collections, copyright librarians can only explain fair use and help identify rights holders who can provide licenses.

2.1.5 Text and Data Mining of Special Collections

Once digitized, special collections are often used for text and data mining. Researchers' mining activities generally constitute fair use, but republication requires checking whether the original works remain under copyright protection.

The copyright office conducts extensive educational outreach and workshops on these issues.

2.1.6 Service Frequency

Samberg indicated they do not track specific frequencies because copyright questions often blend with other inquiries, making them difficult to isolate.

Following the interview, the authors identified three areas warranting deeper investigation: copyright ownership of donations, public domain issues, and researcher support. This led to the questionnaire survey of American copyright librarians.

2.2 Questionnaire on American Library Special Collections Copyright Policy and Services

The survey targeted American library copyright librarians, though some Canadian and Australian librarians also participated (used for comparative purposes only). The questionnaire was designed based on the UCB interview findings and distributed via SurveyMonkey, comprising 10 questions: 7 multiple-choice questions about current copyright policies and services, and 3 open-ended questions about unique aspects of each library's services. The first 7 questions had nearly 100% completion rates, while the last 3 had approximately 75% completion—an acceptable result. Open-ended responses served as supplementary reference material.

2.3 Analysis of Survey Results

2.3.1 Copyright Office Establishment

Fourteen valid responses were collected from U.S. institutions (excluding Cana-

dian, Australian, and Mexican submissions). As shown in Table 1, eight libraries had not established copyright offices, while six had. Notable cases include: Washington University in St. Louis operates a one-person copyright office providing consultation and guidance (not legal advice) to faculty, students, staff, and academic community members, focusing on drafting forms and agreements for digital resources, exhibitions, and licensing; Muhlenberg College has both a special collections library and copyright office, but services are limited to reviewing digitization projects and patron requests; the University of Michigan has a more comprehensive copyright office that advises the library and contributors on rights for published and unpublished works; Appalachian State University, despite lacking a copyright office, employs a “copyright specialist” to handle library copyright issues.

2.3.2 Material Formats and Consultation Types

Materials are primarily divided into digital and physical special collections. Digital collections encounter more problems than physical ones, confirming the focus on digital copyright issues. Regarding consultation methods, face-to-face communication predominates, but limited staffing necessitates improved online processing systems to reduce in-person consultations and allocate resources more efficiently.

2.3.3 Copyright Information Services by Special Collections Type

The survey examined nine representative types: archives, manuscripts, audiovisual materials, audio recordings, etc. As shown in Figure 1 [Figure 1: see original paper], archives and manuscripts accounted for the highest percentages. Archives are prominent because many university libraries integrate archival functions, making archival consultations inevitable.

2.3.4 Legal Basis

Legal foundations are crucial for policy legitimacy. As Figure 2 [Figure 2: see original paper] shows, American libraries primarily base copyright policies on federal and state laws, particularly the Copyright Act of 1976 (with provisions effective 1978 and 1980), donor restrictions, and privacy-related federal laws including the Family Educational Rights and Privacy Act (1974) and Health Insurance Portability and Accountability Act (1996).

2.3.5 Copyright Ownership Distribution

Copyright ownership typically falls into four categories: donor-owned, jointly owned, library-owned, or undetermined. As Figure 3 [Figure 3: see original paper] reveals, donor-owned copyright ranks highest. In many donations, copyright does not transfer, either because it was never discussed or was explicitly retained. When copyright does transfer to the library, it simplifies subsequent management. Mixed ownership—where donors transfer partial rights (e.g., for exhibition or lending but not digitization)—is also common. A significant portion has undetermined ownership, representing the most challenging cases because unclear boundaries or uncertainty about orphan works or public domain status can restrict research use.

2.3.6 Major Copyright Processing Challenges

Four primary difficulties exist in copyright processing: pre-digitization copyright verification, license acquisition, copyright expiration determination, and physical collection protection. As Figure 4 [Figure 4: see original paper] shows, pre-digitization copyright verification is the most common and challenging issue, as ownership often cannot be confirmed due to time elapsed, multiple transfers, or unidentified creators.

2.3.7 Responsibilities of Library Copyright Institutions

Respondents described similar responsibilities: serving primarily university faculty and students, with some libraries providing services to the general public. Core duties include copyright clearance, determination, and consultation. Some institutions emphasize scholarly communication and publishing, though special collections copyright services are implicitly included in their responsibilities.

2.3.8 Quality Improvement Measures

The most frequently mentioned measure was conducting workshops, followed by online video promotion (e.g., campus display screens) and copyright education during new student orientations. Embedded classroom instruction is also increasingly adopted. Analysis reveals six key points: (1) Low establishment rates for copyright offices and specialists; (2) Lack of streamlined online problem-solving processes; (3) Policy formulation based on federal and state laws; (4) Complex copyright ownership requiring urgent clarification; (5) Pre-digitization verification as a major challenge; (6) Need for more clearly defined librarian responsibilities.

3. Implications for Chinese Library Special Collections Copyright Policy and Services

To understand Chinese university librarians' perspectives on special collections copyright services, the authors surveyed 12 librarians from institutions including Fudan University, Shanghai Jiao Tong University, and specialized institutions like Tianjin Conservatory of Music. Five considered such services "very important" and seven "important," demonstrating recognition of their significance.

3.1 Establishing Copyright-Related Positions and Functional Departments

3.1.1 Creating Copyright Librarian Positions

Chinese libraries should adopt the American practice of establishing "copyright librarian" positions (potentially part-time) to answer user questions, handle copyright crises, provide legal guidance, and protect user rights. Librarians with legal backgrounds can provide more effective services, enhance credibility, and improve library image. Harvard University's model of designating primary copyright responsibility could serve as a reference.

3.1.2 Establishing Copyright Offices

Many American universities have established copyright offices, and this study found that libraries with such offices provide superior copyright information services, demonstrating the value of dedicated institutional management. Chinese university libraries should consider adding relatively independent copyright offices to their organizational structures to improve management efficiency and service quality.

Based on analysis of the University of Michigan and UC Berkeley's service processes, Figure 5 [Figure 5: see original paper] illustrates a clear workflow suitable for Chinese libraries.

3.2 Emphasizing Fair Use and Disclaimers

3.2.1 Emphasizing Fair Use

Article 22(1)(6) of China's Copyright Law stipulates fair use for "classroom teaching or scientific research, translation or limited reproduction of published works for teaching or research purposes, but not for publication or distribution." However, "limited" lacks quantification. Stanford University's copyright information service documents provide specific metrics (e.g., no more than 10% or 3 minutes of animated works), offering a model for clarifying fair use scope in policy documents.

3.2.2 Emphasizing Disclaimers

Establishing reasonable crisis management procedures provides safeguards for library users and enables rapid resolution of violations. This enhances efficiency and service quality. As service organizations, university libraries have limited enforcement capacity and can only fulfill notification obligations. User violations may damage library reputation and operations. Therefore, disclaimers regarding website security and hyperlink policies are essential. Strict copyright law implementation and serious handling of violations by relevant units are necessary to ensure policy effectiveness.

3.3 Streamlining Special Collections Copyright Processing Workflows

3.3.1 Incoming Special Collections Processing Workflow

Many issues arise when libraries receive special collections, but lack of standardized guidance leads to inconsistent handling. Combining processes from Michigan and UC Berkeley, Figure 6 [Figure 6: see original paper] presents a suitable workflow for Chinese libraries.

3.3.2 User License Acquisition Workflow

American libraries provide guidance on obtaining copyright licenses. Synthesizing best practices with Chinese library development contexts, Figure 7 [Figure 7: see original paper] outlines a detailed license acquisition process comprising four parts: (1) determining if permission is needed; (2) how to obtain it if required; (3) resolving non-copyright issues; (4) sharing works created based on special collections.

3.4 Seeking External Cooperation

3.4.1 Intra-Institutional Cooperation

American special collections platforms, such as characteristic databases, collaborate closely with local archives and museums, significantly enriching their collections. While many U.S. university archives are integrated with libraries or maintain close relationships, Chinese archives and libraries operate as distinct entities with limited cooperation. This outdated model must evolve toward collaboration to become protagonists in information resource development.

3.4.2 Inter-University Alliance Platforms

Library special collections serve specific user groups. Breaking information barriers requires optimizing and integrating resources for broader access. Building inter-university alliance platforms can consolidate special collections, improve utilization rates, alleviate financial pressures, and enable other service developments. The California Digital Library, for instance, collaborates with 10 UC system universities plus state archives and museums to create a world-renowned digital research library, transforming how faculty and students access information.

3.5 Actively Responding to University Intellectual Property Information Service Center Construction

The “Implementation Measures for the Construction of University Intellectual Property Information Service Centers” specifies that such centers are generally established within university libraries, which must establish management structures, employ full-time staff, and formulate daily management measures. In Australia, most universities also assign copyright and compliance management responsibilities to library organizations, aligning with China’s future vision.

Seizing this national opportunity, libraries should embrace their role as protagonists, actively promoting and participating in IP information service center construction, integrating copyright services with university IP protection contexts, and providing institution-specific copyright services.

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Zhang Libin: Partial content writing and final manuscript editing;

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