Interview with Lois Wasoff, Esq.
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KENNEALLY: We're looking forward to a program for the IFRRO Business Models Forms Solutions for a Changing World, a panel discussion on licensing business models for the future, authoring and publishing in 2012, 2015 and 2020. Joining me is Lois Wasoff, an IP attorney and copyright expert and Lois, nice to see you.

WASOFF: Hi, Chris. Nice to see you, too.

KENNEALLY: It's good to have you join us and your perspective particularly, for this panel discussion is going to be about STM Publishing, scientific, technical and medical publishing. Tell us what's been going on in the STM Publishing world that really has prepared them for this future publishing model.

WASOFF: Well, STM Publishers were really the first publishers to find ways to monetize content on the web and they have historically done a good job. Digital journal publishing began back in the 1990s, which was long before other kinds of publishing were really prepared to begin distributing their content in digital form. Now, scholarly publishers certainly had an advantage there. There already was a demand. There was an existing market. It's easier, obviously, to make the kind of substantial investments you need to make to build new products if you've identified a potential purchaser and because STM products are sold to scientists, researchers, universities, libraries, all of which were more sophisticated with computer technology and networks than ordinary consumers were in the early mid '90s.

KENNEALLY: In fact the network had been built pretty much for them.

WASOFF: Exactly. That's an excellent point. So STM had a – there was a path in for STM and STM not only took that path, but built on it, expanded it, forged new paths. STM Publishers knew that they needed to invest to digitize their content and they did that, but they also understood that they needed to build supporting infrastructure and I think made some very positive far-seeing decisions in that regard. I could give several examples, but I could focus on just one right now, which is the creation of CrossRef and I think you're familiar with CrossRef, Chris.

KENNEALLY: But not everybody is, so maybe we'll just tell them briefly what you mean.

WASOFF: OK. CrossRef is an organization that was formed – that began to be formed in the late 1990s by a collaborative effort between and among publishers and publishing associations. There were a couple of different threads that wound together. One of them had to do with development of the digital object identifier, the DOI, which is a critically important development. It's a way to tag and follow a digital object and I should be clear about this. I'm not talking here about digital rights management at all, but I'm talking about the ability to create a persistent link back to a digital object and that's critical to being able to sell access or copies of that object or permit such access if you're not doing this on a purely economic basis.

KENNEALLY: Right, and I mean I'm not sure that's quite the right image, but it's a bit like putting a dog tag on a dog, that way you know who owns the dog.

WASOFF: Yep. Well, it's almost more like putting that microchip in. So the dog can be located, can be tracked back to its source. The dog tag can fall off. The key to a digital object identifier is that it is persistent and it doesn't fall off. The dog tag is more like the URL that can break. The DOI –

KENNEALLY: Nice distinction.

WASOFF: – is that microchip.

KENNEALLY: Right.

WASOFF: So scholarly publishers also understood back in the late 90s, that providing information in digital form in a networked environment also meant creating the ability to link objects together and that was new because you couldn't do that in paper, certainly not as easily. You could get up from the journal you were reading, go back to the library, forage through the shelves, pull another print copy off the shelf. What the web created was the ability to very quickly move from one object to another without moving yourself, a huge advantage for researchers and scholarly publishing understood that it needed to facilitate that capability. To do that it created CrossRef. CrossRef was created to use the digital object identifiers to create a linking backbone that would permit researchers to move seamlessly from one digital object, in this case most commonly a journal article to another, the journal article itself, the underlying data set, some other piece of information or content that's referred to within the journal article without having to stop and start over. CrossRef has been enormously successful. It was a publisher initiative. It started back in – when it was formed back in 2000, it began with a very small

membership and it has grown exponentially. In 2001, there were 69 members. There are now more than 900.

KENNEALLY: And clearly global?

WASOFF: Global. Members from every continent.

KENNEALLY: Right, because by definition, I suppose, it would have to be.

WASOFF: Right. Exactly. In 2001, there were three million DOIs registered. That means three million separately identified objects that were being identified within the system. As of today, there are almost 44 million DOIs registered. So that's been an enormous success and STM Publishers – scholarly publishers generally because there was support for it outside of the STM community as well, really anticipated the need to build an infrastructure that would support their activities with these new media and did it and I think that's a good example of how STM anticipated needs and met them as they were being developed. So that's the STM experience and I think it's useful for other kinds of publishing as they enter the digital age to be looking for similar opportunities, but I think things have gotten a lot harder.

KENNEALLY: And the degree of difficulty is – well, it's tremendous because it's not just about keeping up with the proliferation of devices, the new kinds of devices, but just the habits of people as they use their information.

WASOFF: It's all of those issues are paramount, are critically important. We're seeing changes like – well, as you pointed out, the movement to different devices, mobile devices now are very common, the ability to move the same object from device to device to device without any compromise in quality or capability is becoming increasingly important. Content has to be redesigned to work well on those devices. Open access has become a challenge. More and more content is available through open access and that's a trend that will continue. We're seeing mandated government access. We're seeing institutions requiring that their scholars and researchers be able to deposit copies of their work product in university repositories, institutional repositories, as well as the copy that is maintained by the publisher. So we're seeing a proliferation of different versions, which is a challenge for anyone entering this field. We are seeing challenges in terms of facilitating the different capabilities within scholarship, within any kind of published material. Published materials now include not just text or even linked text, but video, audio, embodied resources from other sites on the web. That connectivity has to be replicated and it's very, very challenging to try and manage all that.

KENNEALLY: And one of the things that's the biggest challenge of all and you mentioned – you sort of referenced it with open access is the monetization piece and the critical importance of licensing. The audience this afternoon is a global audience. It's the audience of IFRRO, RROs from around the world, but also their partners in associations who work with them on the publishing side, the author side, all of that. What is some things that you think have been learned in this STM experience that are applicable today as far as licensing and monetization?

WASOFF: Well, licensing is obviously a critical piece of this and I think what STM Publishers have learned and what I think all of publishing is learning is that if materials aren't made available in a simple, accessible way than one of two things will happen. Either they'll be stolen. They'll be used without permission or payment or substitutes will be found. If you can't get access to the material that you want, precisely the piece of material you want because it's behind a firewall, because it isn't something that you can find a way to get permission to use, you'll identify something else and use that instead and the Internet lets you do that. So what –

KENNEALLY: And do it pretty easily, too.

WASOFF: Quite easily. So I think what we've all learned is that it's critical to streamline the licensing process and that's why I think collective licensing is so terribly important. If it weren't for the kinds of repertory licenses that CCC developed, the copyright licenses that made it possible, quickly and easily and without impediments and delays to get permission to use materials within corporate structures, within corporate entities, within academic institutions than I think a substantial opportunity to generate revenue from content would have been lost.

KENNEALLY: Right. There's the permission piece that's critical, but also, it has to be said, the remuneration piece is important.

WASOFF: It is important and the victory in the old Kinko's case – remember the old Kinko's case?

KENNEALLY: For those of us who don't, maybe you can say what that means.

WASOFF: The old Kinko's case. The course pack case. The case that said that you need permission to photocopy substantial excerpts to then use them in course packs. Well, that precedent would have become meaningless if Copyright Clearance Center hadn't stepped up to create the kinds of licensing mechanisms that made it possible to comply with the law. Where you don't make compliance possible, you encourage a lack of compliance and you also encourage a lack of respect for the law and you end up in circumstance where the law basically changes to reflect practice

and I think – now this is another conversation and I know we're running out of time, but I think you find yourself in a position where, for example, in the United States, where we have the Fair Use Doctrine. You see the Fair Use Doctrine changing and morphing and expanding to encompass a lot uses that 20 years ago clearly would not have been deemed to be fair use, but maybe they are today because the law has – the facts have changed on the ground and the law has evolved along with it and we see that in recent court decisions on fair use. So there are a lot of challenges.

KENNEALLY: Well, I guess the point is that it's kind of like the weather here in New England. If you don't like it, wait a minute. I mean the situation both legally and technically, as you point out is evolving from minute to minute. It's something that we're watching with you, Lois Wasoff and we'll listen about this afternoon at the IFRRO Business Models Forum and I want to thank you for joining us. Lois, nice to see you again.

WASOFF: Nice to see you, Chris.

KENNEALLY: We've been chatting with Lois Wasoff, IP attorney and copyright expert who will be appearing in the IFRRO Business Model Forum – Solutions for a Changing World Licensing Business Models for the Future, authoring and publishing in 2012, 2015 and 2020. For all of us at Copyright Clearance Center, this is Chris Kenneally. Thanks for listening.

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