Overview

• Provide NDIIPP background
• Outline elements, recent accomplishments
• Focus on some major areas of interest:
  - Digital Preservation Partnerships
  - LC/NSF Digarch Awards
  - Copyright Law Section 108 Group
  - E-deposit
• Areas of future interest, investment
NDIIPP Background

- Created by legislation in December 2000
- Congress directed LC to serve as a change agent in working with digital preservation stakeholders
- $175 million (some matching) provided to explore approaches, make targeted investments
- Aim is to:
  - Develop a collaborative national strategy for preserving significant, at risk digital content, and
  - Work with others to test, refine, and implement
NDIIPP Elements

- Preservation Partners
- Technical Architecture
- Research
Implementing the NDIIPP Vision

- Partners to collaborate in a distributed, interoperable technical architecture.
- Program Announcement for competitive proposals used to select network partners.
- 8 partnerships with universities, others, funded in Oct. 2004 for 3 years.
Lead Institutions for the 8 Partnerships

- California Digital Library: Web political content
- Emory University: Southern digital culture
- UC Santa Barbara: Geospatial Data
- NC State University: Geospatial Data
- U of Maryland: Dot.com business records
- U of Michigan: Social science data
- U of Illinois at Urbana-Champaign: State government publications, among other content
- WNET/PBS: Digital television
Goals for the Partnerships

- Identify/select/collect content; communicate strategies for doing so
- Probe intellectual property issues
- Collaborate broadly in developing a shared technical architecture
- Study economic sustainability
- Identify and share best practices
- Learn how to build and incrementally improve a preservation network
Learning from the Partnerships (So Far)

- Partners want LC to play an active role
  - Develop processes to build, operate network
  - Ensure internal/external communication
  - Provide guidance, advice
- Partners are motivated, enthusiastic
- Much interest in repository federation: Linking diverse preservation models
Network of Networks

- LC pleased to see interconnections between partners, other networks
- Some examples:
  - Association of Research Libraries
  - Digital Library Federation
  - Coalition for Networked Information
  - UK Joint Information Systems Committee
Emerging Issues

• Natural tension between collaboration and tradition of institution-specific approaches
• Much interest in joint infrastructure, but developing shared services will take time
• Existing preservation methods are being stretched
• Balancing a focus on project goals while also considering lots of interesting ideas
LC/NSF Digarch Research Program

• Joint LC/NSF digital preservation research grants program (NSF administers)
• Looking to fund cutting edge research
• Major categories of interest:
  - Digital repository models
  - Tools, technologies, and processes
  - Organizational, economic, and policy issues
Digarch Awards

- NSF recently awarded $3 million in research funding to 10 projects
- Projects to produce results within 1 year
- Research efforts will be integrated with the larger NDIIPP effort
Awards

Marchionini, U of NC Chapel Hill, Preserving Video Objects and Context
Miller/Detrick, UCSD/Woods Hole Oceanographic Institute, Multi-Institution Testbed for Scalable Digital Archiving
Sudha Ram, U of AZ, Data Provenance in the Context of New Product Design and Development
Joseph Ja’Ja’, U of MD, Robust Technologies for Automated Ingestion and Long-Term Preservation of Digital Information
Michael Nelson, Old Dominion, Shared Infrastructure Preservation Models
Randal Burns, JHU, Securely Managing the Lifetime of Versions in Digital Archives
William Regli, Drexel, Digital Engineering Archives
Micah Beck, UT Knoxville, Planning a Globally Accessible Archive of MODIS Data
Margaret Hedstrom, U Michigan, Incentives for Data Producers to Create Archive-Ready Data Sets
Arcot Rajasekar, UCSD, Lifecycle Management: A Preservation Prototype for Multimedia Collections
Next Steps

- Outline the 2010 report for Congress
- Assess what we still need to do; areas to consider:
  - Expand collaborative opportunities
  - Develop e-deposit capacity
  - Engage IT, content companies
  - Communicate emerging standards and best practices
Learning and Incremental Development

- We need to get broad feedback and continue learning
- Still no “silver bullet” solution to digital preservation
- NDIIPP considering all viable approaches, working toward gradual development of decentralized, interoperable architecture
- Our partners are modeling this approach
Feedback Areas for NDIIPP

- How to promote cooperation among entities that may be competitors in other areas?
- What’s best way to integrate individual approaches into a shared social, technical network?
- Who pays: How to boost economic sustainability?
- What’s the best way to identify and communicate standards and best practices?
- What’s the most effective process to bring others into the network?
Section 108 Study Group

- Independent group of experts, sponsored by Library’s NDIIPP program in cooperation with Copyright Office
- Requested by NDIIPP to reexamine exceptions in the copyright law applicable to libraries and archive
  - in view of changes wrought by digital technologies
- Membership divided b/w libraries/archives and various copyright industries
  - serve as experts w/varied perspectives, not advocates or representatives
  - small committed group w/consistent membership to foster work product
Section 108 Study Group

• Why NDIIPP?
• NDIIPP Master Plan Findings
  - Copyright identified as one of principal hurdles for digital preservation
  - Preservation activities necessarily implicate exercise of reproduction right
  - First sale doctrine not applicable
  - Preservation = infringement unless:
    • Fair use
    • Licensed
    • 108(b) or (c) applies
Section 108 Study Group

- Group asked to identify all areas of concern
- Recommend balanced exceptions that:
  - address concerns of right holders, as well as libraries and archives
  - further public interests of research, scholarship and access to information, without conflicting with normal exploitation of copyrighted works
  - Group to submit findings and recommendations to Librarian of Congress by mid-2006

- Website: www.loc.gov/section108
Section 108 Study Group

The Section 108 Study Group Mission Statement

The purpose of the Section 108 Study Group is to conduct a re-examination of the exceptions and limitations applicable to libraries and archives under the Copyright Act, specifically in light of the changes wrought by digital media. The group will study how Section 108 of the Copyright Act may need to be amended to address the relevant issues and concerns of libraries and archives, as well as creators and other copyright holders. The group will provide findings and recommendations on how to revise the copyright law in order to ensure an appropriate balance among the interests of creators and other copyright holders, libraries and archives in a manner that best serves the national interest. The findings and recommendations will be submitted by mid-2006 to the Librarian of Congress.
Section 108 Study Group

Mission Statement:
The purpose of the Section 108 Study Group is to conduct a re-examination of the exceptions and limitations applicable to libraries and archives under the Copyright Act, specifically in light of the changes wrought by digital media. The group will study how section 108 of the Copyright Act may need to be amended to address the relevant issues and concerns of libraries and archives, as well as creators and other copyright holders. The group will provide findings and recommendations on how to revise the copyright law in order to ensure an appropriate balance among the interests of creators and other copyright holders, libraries and archives in a manner that best serves the national interest. The findings and recommendations will be submitted by mid-2006 to the Librarian of Congress.
### Section 108 Group meetings

#### April 2005
- **Date:** April 14-15
- **Location:** Washington, D.C.
- **Topics:**
  - Issue listing and prioritization
  - Mission statement
  - Organization of Study Group

#### June 2005
- **Date:** June 9
- **Location:** New York, N.Y.
- **Topics:**
  - Analog-to-digital preservation copying of published works

#### September 2005
- **Date:** September 8-9
- **Location:** Washington, D.C.
- **Topics:**
  - Analog-to-digital preservation copying of published works
  - Digital-to-digital preservation copying of published works
  - Access to preservation copies

#### November 2005
- **Date:** November 10-11
- **Location:** New York, N.Y.
- **Topics:**
  - Digital-to-digital preservation copying of published works
  - Access to preservation copies
  - Who is covered under section 108, and how to define covered entities

#### January 2006
- **Date:** January 12-13
- **Location:** Washington, D.C.
- **Topics:**
  - Access to preservation copies
  - Who is covered under section 108, and how to define covered entities
  - Different treatment of published and unpublished works
  - Copies made at the request of patrons

#### March 2006
- **Date:** March 9-10
- **Location:** Los Angeles, CA
- **Topics:**
  - Different treatment of published and unpublished works
  - Copies made at the request of patrons
  - Interlibrary Loan
  - E-reserves

#### May 2006
- **Date:** May 11-12
- **Location:** Washington, D.C.
- **Topics:**
  - Copies made at the request of patrons
  - Interlibrary Loan
  - E-reserves
  - Licenses and contracts
  - Organization and structure of section 108

#### July 2006
- **Date:** July 13-14
- **Location:** New York, N.Y.
- **Topics:**
  - Licenses and contracts
  - Clarifications and conclusions

**Public Meetings:** March 2006
- Washington DC and LA
17 USC Section 108

- Privilege is for reproduction “by libraries and archives”
  - “libraries” and “archives” are not defined

- To qualify for any of the section 108 privileges:
  - No copy may be made for direct or indirect commercial advantage
  - Library or archive must be open to the public or at least to researchers doing specialized research
  - Copies must include notice of copyright or appropriate legend
Section 108 Copies for Libraries

• Unpublished works (108(b)): up to 3 copies (analog or digital) of a work in its collection for preservation, security or deposit for research in another library

• Published works (108(c)): up to 3 copies (analog or digital) to replace a lost, stolen, damaged, deteriorating or obsolete copy
  - Library may copy only if it first makes reasonable effort to obtain unused copy at a fair price
  - What’s obsolete? What’s deteriorating?
Section 108 Copies for Libraries

- Until 1998, libraries were permitted to make only a single copy “in facsimile form”
- The DMCA changed law to allow
  - up to three copies
  - in analog or digital form
  - copies made in digital form may not be made available outside library premises
Section 108 Copies for Libraries

- Reflects analog world practices
- Three copy limit reflects “microform” type preservation standards
- Use on premises requirement – addresses concern that off-premises use opens door for unfettered copying and internet distribution
- Bricks & mortar view of “libraries”: premises are physical, not “virtual”
Section 108 Copies for Libraries

- Orphan works provision: in the last 20 years of a work’s copyright term, library may reproduce for preservation, scholarship or research
  - If the library determines that the work is not available at a reasonable price and no longer subject to normal commercial exploitation
  - Copies may be in digital or analog form
  - Also allows distribution, display, performance
  - Amended in 2005 to include all types of works
Section 108 Copies for Users

• At user’s request, library may make a single copy of an article from a periodical issue or chapter of a book
  - Copy must become property of user
  - Library can have no notice copy will be used for other than fair use purposes
  - Library must provide copyright warning as prescribed by regulations
Section 108 Copies for Users

• At user’s request, library may make copy of entire work or substantial part thereof
  - After reasonable effort to obtain copy at a fair price
  - Copy must become property of user
  - Library can have no notice copy will be used for other than fair use purposes
  - Library must provide copyright warning as prescribed by regulations
Section 108 Limitations

- Rights to reproduce and distribute apply to isolated and unrelated reproduction of a single copy on the same or separate occasions
  - Does not apply if library is aware copying is related or concerted
  - Does not apply if copying is systematic
  - Libraries may participate in interlibrary arrangements if purpose or effect is not to substitute for subscriptions or purchases
Challenges

• Tension between opposing views
  - Libraries/Archives’ mission:
    • serve the public by preserving and providing access to cultural and information resources
    • 21st century library takes full advantage of digital technologies
  - Publishers’ concern: Libraries’ unfettered use of digital technologies has potential to devastate market for works

• BUT share common ultimate interests
  - to foster and bring creative culture and knowledge to the public
  - Preserve our culture and knowledge
Evolving Study Group Issues

• Defining “libraries and archives”
  - Include museums?
  - Profit/non-profit

• Preservation
  - Analog-to-digital
  - Digital-to-digital
  - Published/unpublished
  - Web sites

• Access to preservation copies

• Replacement Copies

• Copies made upon request of users (including ILL)

• Licensing
Discussions To Date

- Treat preservation and access separately
- Preservation issues
  - Number of copies: more than 3, but how many?
    - Reasonably necessary, limited
    - Other types of limits
  - “Preservation-only” exception: to allow preservation prior to loss due to ephemerality and inherent instability of digital media
  - Circumvention of technological protection measures (TPMs)
  - Separate provision for web capture?
Discussions to Date, cont’d

- Access issues
  - Limits on simultaneous users of digital copies (instead of limits on number of copies?)
  - Access to digital copies outside the physical premises of the library/archive
  - Require use of access and copy control technologies
  - Additional 108(c) “triggers” allowing copies for user access:
    - Unstable?
    - Fragile?
    - Unique?
Public Roundtables

• Tentatively scheduled for March in L.A. and D.C.

• Similar in structure to orphan works roundtables:
  - Participants to register in advance and submit short proposed statements in response to published questions
  - Roundtables discussions divided by topic
Questions??