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STACKTRACE // News from Software Preservation Network

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Oct 2019 - Nov 2019  
Volume 2, Issue 6

## SPN-WIDE INITIATIVES

*Learn about current SPN-wide efforts - activities that crosscut working groups and affiliated projects.*

## TWO-YEAR SEED FUNDED LAUNCH

### **An Update from SPN's Community Coordinator**

It's mid-November and I can now safely say that the SPN community made it through another busy conference season! Thank you to everyone who gave a presentation about your work or joined a SPN meetup this year. Your contributions to the software and digital curation fields, your leadership and bravery in sharing those contributions in rooms full of people, and your commitment to cultivating the SPN community is deeply appreciated.

As we head into winter breaks and holidays, our Steering subcommittees are heads-down answering the big questions that will drive our upcoming membership campaign and ensure SPN's sustainability past the seed-funded period. Our Policies & Procedures subcommittee continues to lay the foundation of replicable processes we'll need for 2020 and beyond. Opportunities to engage with difficult legal questions around software

preservation continue to expand with Brandon's monthly chats and amicus brief monitoring. Our working groups continue to make progress toward their action plans. Look out for opportunities to get involved in a new group or change your role within SPN in January.

We've accomplished an incredible amount in the first year of the seed-funded period. As you wind down and start dreaming of new starts in 2020, I encourage you to reflect upon—without downplaying!—the substantial individual commitments you make to this community, and how those commitments collectively make an incredibly productive, visible, and powerful community that is truly saving software together.

Yours, in software preservation,  
Jess Farrell

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## **SPN Wins NDSA Organization Innovation Award**

The Software Preservation Network recently had the honor of receiving the 2019 NDSA Organization Innovation Award! On behalf of the entire SPN community, we send our sincerest thanks to the NDSA Awards Committee for this recognition.

From the award letter: "The awards panel was particularly eager to recognize... the critical emphasis you have placed on issues of community engagement and organizational sustainability. This work provides an extremely useful case study to the stewardship community of the importance of thoughtful and iterative self-reflection and refinement of organizational strategies, goals, processes, and initiatives to ensure the continued relevance, value, and persistence of programmatic efforts."

Software Preservation Network founders Jessica Meyerson and Zach Vowell were on site at the 2019 NDSA Digital Preservation Conference in Tampa, FL to accept the award.



*SPN Founders Jessica Meyerson and Zach Vowell receive the 2019 NDSA Organization Innovation Award in Tampa, FL*

## CONFERENCES AND EVENTS

### Mark Your Calendars: Upcoming Law & Policy Chat on Dec. 5

**New Resource for SPN Members**

# Law & Policy Chats



*An opportunity for members to chat with SPN's Law & Policy Advisor, Brandon Butler, and each other about their questions or concerns, plus learn more about how to use tools like the Best Practices and the DMCA Exemption to preserve and provide access to software.*

**Who:** SPN Members

**When:** Thursday, Dec. 5 from 3:00-4:00 ET



If you're at a SPN member institution, mark your calendars for the next Law & Policy Chat on **Thursday, December 5 from 3:00 to 4:00 pm ET**. It's your monthly opportunity to chat with SPN's Law and Policy Advisor, Brandon Butler, about your software preservation

questions and concerns.

All members should have received call-in information via email. We look forward to seeing many of you there!

## QUARTERLY COMMUNITY FORUM

A dark blue banner with a glowing, abstract pattern of light blue lines. The text is white and teal. The main title 'Software Preservation Community Forum' is at the top. Below it, the text reads 'Subscribe to the Software Preservation Network listserv to receive call-in information: http://bit.ly/spn-listserv'. In the bottom right corner is the Software Preservation Network logo, which consists of a stylized 'S' and the text 'Software Preservation Network'.

The Software Preservation Network invites you to join us for the upcoming Quarterly Software Curation and Preservation Community Forum taking place on **Tuesday, December 10 at 8 am PT/10 am CT/11 am ET!**

Each quarter, we invite our colleagues across professional and disciplinary communities to participate in an hour-long discussion on topics related to software curation, preservation, and reuse.

The Winter 2019 Forum will include progress reports from parallel efforts, including:

- Morane Gruenpeter discussing the [new collaboration between Software Heritage and GitHub](#) to archive and preserve humankind's source code
- Henry Lowood (Stanford University, Silicon Valley Archives) providing an introduction to SVA and Stanford's involvement with the GitHub Archive project
- Zachary Furste (Carnegie Mellon University) discussing legacy software and emulation in the classroom at the Carnegie Mellon School of Architecture

As a subscriber to the [Software Preservation Network listserv](#), you will receive reminders, calendar invites, and call-in information for the QCF via email.

If you are interested in discussing a specific topic during future Community Forums,

[submit your topics and questions via Google form.](#)

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## AFFILIATED PROJECTS

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*Learn about SPN affiliated project activities and milestones. SPN affiliated projects focus on specific aspects of software preservation/curation that support the strategic goals of SPN.*

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**Timeline:** January 2018 – June 2020

**Funder(s):** Andrew W. Mellon Foundation and Alfred P. Sloan Foundation

**Awardee:** Yale University

The EaaS! Team has been all over the country and the globe these past couple months, raising awareness and seeking new opportunities to use emulation for access to born-digital materials. We're coming into the home stretch of this phase of the project and are seeing the results of our labor as the nodes in the EaaS! Network begin to create their own emulation environments for research and teaching. To see an example of this work and learn more about our travels, click on through...

[Read the complete update here!](#)

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**Timeline:** June 2017 – May 2020

**Funder(s):** Institute for Museum and Library Services #RE-95-17-0058-17

**Awardee:** CalPoly State University

Ever active, members of the FCoP cohort are working on several upcoming software preservation outreach activities with a focus on research data curators and technologists. Cohort proposals were accepted by the International Digital Curation Conference (IDCC) and Code4Lib. The FCoP Blog Reflection Series continues with published posts by University of Illinois and Georgia Tech. Dr. Amelia Acker shares her last field report from her visit to the University of Virginia, as well as reactions to a recent researcher workshop on mapping collaborative workflows (using her interviews with FCoP team members from three field sites).

[Read the complete update here!](#)



**Timeline:** January 2017 - June 2020

**Funder(s):** Alfred P. Sloan Foundation

**Awardee:** Association of Research Libraries

**All SCOTUS, All the Time! Edition**

The Supreme Court of the United States (that's long for SCOTUS) has taken up residence at the center of SPN's law and policy agenda thanks to two cases. One could change the stakes for all uses of in-copyright works at public institutions, while the other could change the scope of software copyright and the shape of fair use in general for decades to come.

The court announced last week that it would take up perhaps the most epic software copyright battle ever, [Oracle V. Google](#). The case revolves around Google's use of certain elements of Java in its open source Android mobile operating system. Oracle sued Google alleging copyright infringement, and Google made two main defenses. The Project DisCo blog has a nice, quick [summary](#) of the case.

First, they argued that the Java portions used in Android should not be subject to copyright because it is part of a "system or method of operation," which the law excludes from copyright in [Section 102\(b\)](#). Lower courts have long recognized that not all computer code qualifies for copyright protection, but the precise boundaries could be clarified (or muddled) by the SCOTUS in this case. Second, Google argued that its repurposing of portions of Java in Android constituted fair use. Google won both arguments at the trial level, but the Court of Appeals for the Federal Circuit reversed, twice.

Now the Supreme Court has taken up both issues. This will be the first SCOTUS opinion on software copyright *ever*, and the first fair use case *since 1994*. Suffice to say, the stakes in this case could be quite high for SPN members. We will look for opportunities to submit or join an effective amicus brief to ensure that preservation concerns are represented in the case, and of course we will keep you updated as the case moves forward.

If you want a deep dive on the second case, *Allen v. Cooper*, check out our [blog post](#) about it from earlier this fall. The TL;DR version is that this case is about whether state governments and state institutions (including universities (like mine!) and museums) are immune from copyright damages under the [11th Amendment](#) to the Constitution. SPN joined an excellent amicus brief in the case. On November 5, the author of that brief, [Jonathan Band](#), joined us for our November members-only Law and Policy video chat. Oral argument had taken place at the Supreme Court that morning, and Jonathan was in the room, so he reported back on how the argument unfolded.

Predicting outcomes from oral arguments is notoriously tricky, but Jonathan's impressions echoed others I've heard, namely that the justices were wrestling with the issue and may look for a middle path that puts states on the hook for egregious activity, but protects them in more innocent or ambiguous circumstances. The court could decide the case at any time throughout the term, though it is unlikely to be among the controversial cases that are

typically released at the very end, in June or July. Watch this space for updates and analysis.

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## JOIN SPN

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*The Software Preservation Network (SPN) facilitates and supports software preservation efforts. SPN preserves software through community engagement, infrastructure support, and knowledge generation in five core activity areas including Law & Policy Advocacy, Metadata & Standards Development, Training & Education, Research-in-Practice, and Technological Infrastructure.*

Do you appreciate the work that SPN has been doing over the last several years to broaden participation and ensure lawful preservation, sharing, and reuse of software? Would you like to SPN to continue its work of coordination, research, advocacy, and capacity building? Do you have ideas or a vision for the future of software preservation that you would like to see realized through the SPN community?

If you answered “Yes” to any of these questions, then consider supporting our work through membership or sponsorship. To learn more about the benefits of membership and sponsorship, visit: <https://www.softwarepreservationnetwork.org/get-involved/>

To join, download, complete and submit your [SPN Participation Agreement](#) to <[jess.farrell@educopia.org](mailto:jess.farrell@educopia.org)>.



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