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Digital Initiatives Symposium

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Apr 29th, 3:15 PM - 3:55 PM

### Controlled Digital Lending is Dead; Long Live CDL / Progress report from Project LEND: UC's initiative to expand digital access for copyrighted material

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Wallace, Sagan and Majors, Rice, "Controlled Digital Lending is Dead; Long Live CDL / Progress report from Project LEND: UC's initiative to expand digital access for copyrighted material" (2024). *Digital Initiatives Symposium*. 11.

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# Controlled Digital Lending is Dead; Long Live CDL / Progress report from Project LEND: UC's initiative to expand digital access for copyrighted material

## Presenter 1 Title

L.E.A.D. Evening Supervisor

## Presenter 2 Title

Associate University Librarian for Scholarly Resources

## Session Type

40-minute concurrent session

## Abstract

### From Sagan Wallace:

Much has been said about the future of controlled digital lending (CDL) after the 2023 Hachette vs Internet Archive ruling. Some say CDL is on legally shaky ground, and others say CDL will continue to revolutionize how libraries provide materials. I believe these questions are a distraction from a significant issue in many CDL collections - inadequate accessibility.

My institution is a heavy user of CDL, with over 700 scanned textbooks. We formed a task force to identify the best methods to make our CDL collection more accessible. We found that creating screen reader accessible materials takes more labor and expense than expected. Because of this, we have significantly changed the way our institution processes scanned course reserves.

In this presentation, I will demonstrate the barriers people who use screen readers face when trying to access materials, and strategies we took to resolve these issues. I will explain the impact of upcoming legislation on our CDL collections. Finally, I will examine the difficult decisions librarians must make when choosing to make a few materials accessible to all, or many materials accessible to a few.

CDL isn't going away, but our practices could open libraries up to risk from accessibility lawsuits. CDL textbooks exist because of accessibility failures in the publishing realm, where publishers refuse to license to libraries and instructors can't find accessible course materials. But CDL is also a powerful tool we can use to make sure that all students can access all the materials they need for their education.

### From Rice Majors:

In 2023, the University of California launched a landmark Mellon-funded research project to investigate the potential for expanded lawful use of digitized books with a goal of paving the way for national infrastructure. Project LEND has conducted a rigorous user needs assessment (looking beyond use cases supported by Controlled Digital Lending) to learn how scholars interact with digital books and corpora of digital texts, as well as a broad analysis of legal frameworks and technology stacks that could underpin one or more services. We will share a progress report of our findings so far, how the contours of the project have shifted as we learn from our users, and our plans for the remainder of the two-year grant period.

## Keywords

controlled digital lending; accessibility; disability justice; diversity

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## The proposed session title

Controlled Digital Lending is a failure - long live CDL

## An abstract (maximum 250 words)

Much has been said about the future of controlled digital lending (CDL) after the 2023 Hachette vs Internet Archive ruling. Some say CDL is on legally shaky ground, and others say CDL will continue to revolutionize how libraries provide materials. I believe these questions are a distraction from a significant issue in many CDL collections - inadequate accessibility.

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## A longer description (maximum 500 words) of the session

Controlled Digital Lending (CDL), the practice where a library provides a digital text in place of purchased print materials, has been in the legal lexicon since Michelle Wu published her paper in 2011. More recently it has been under intense scrutiny from publishers and libraries due to the 24 March 2023 Hachette v. Internet Archive District Court ruling. While there are many opinion pieces available announcing the death of CDL, and others championing the practice, I argue that there is another threat to the viability of our CDL collections that isn't receiving enough attention - digital accessibility.

My institution has been a heavy user of CDL since 2020, when we (as well as many other libraries) began digitizing our course textbooks in response to the COVID-19 pandemic. In early 2023, it became clear that our materials were not accessible to students, particularly students who use a screen reader. Our institution formed a small task force to identify the accessibility issues in our collection, and to determine how to correct them. We found that creating screen reader accessible materials from scanned books takes significantly more labor and is more expensive than we had originally allotted. Despite our best efforts, the results may still be inadequate for some patrons. Regardless, we dramatically changed our procedures to ensure our students receive the most accessible copy we are able to provide, with recourse available if they still need more assistance.

In this presentation, I will demonstrate the barriers people who use screen readers face when trying to access scanned-from-print materials, even materials with OCR (optical character recognition). I will discuss the strategies our institution has taken to resolve these issues, such as increasing labor, being more selective about eligible texts, and collaborating with groups across campus. I will explain upcoming legislation regarding digital accessibility and its potential impact on our CDL collections. Finally, I will examine the difficult decisions librarians must make when choosing to make a few materials accessible to all, or many materials accessible to a few.

CDL likely isn't going away, but our current practices need to change to ensure we aren't opening our libraries up to risk from accessibility lawsuits. CDL textbooks exist because of failures in the publishing realm, where publishers refuse to license to libraries and instructors can't find accessible course materials. But CDL is also a powerful tool we can use to make sure that all students can access all the materials they need for their education.

### Up to three learning outcomes for the session

- Participants will understand a critique of CDL accessibility and how that impact library operations
- Participants will learn basic accessibility measures their CDL collections should achieve
- Participants will learn strategies to encourage their institutions to change policies and practices

### A list of keywords (10 maximum)

- Controlled digital lending
- Accessibility
- Disability justice
- Diversity