Legal

October 2016 quarterly check-in

WIKIMEDIA

F O U N D A T I O N

Note

Legal was one of a few teams that was testing out a new slide deck format this quarter. This new "quarterly check-in" process is intended to combine the quarterly review process with the quarterly goals process and to connect more closely to the Annual Plan.
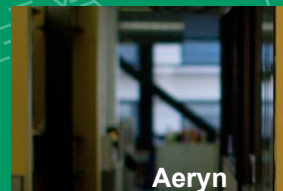
WIKIMEDIA
FOUNDATION

LEGAL TEAM

Here are a few of the areas we work in...

Copyright

Privacy

Trademark

Contracts

Public Policy

Free Expression

Litigation

Here are some of the ways legal team members participate in organizational efforts...

WIKIMEDIA
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- Engagement Committee
- Elections Committee
- Safety Committee
- Quarterly Check-In Working Group
- All Hands Committee
- Diversity & Inclusion Alliance
- Office Space Working Group
- Affiliations Committee

CHECK IN

Oct 2016

TEAM/DEPT

Legal

PROGRAM

1 [LINK]

WIKIMEDIA
FOUNDATION
ANNUAL PLAN

GOAL: Protect project trademarks

What is your objective / workflow?	Who are you working with?	What impact / deliverables are you expecting? And what did you learn?
Maintain and defend project marks worldwide	**LAST QUARTER**	
	- Jones Day (our outside trademark counsel who helps maintain registrations worldwide) - MarkMonitor (service provider for identifying infringement and managing domains)	- Maintained project registrations and domains worldwide, and defended them against wrongful legal and administrative challenges, including those from government offices and third parties globally.
	NEXT QUARTER	
	- Jones Day - MarkMonitor	Same

STATUS: IN PROGRESS

CHECK IN

Oct 2016

TEAM/DEPT

Legal

PROGRAM

None [LINK]

WIKIMEDIA FOUNDATION ANNUAL PLAN

GOAL: Provide core legal support for the Foundation

What is your objective / workflow?	Who are you working with?	What impact / deliverables are you expecting? And what did you learn?
Maintain and defend Foundation trademarks worldwide	**LAST QUARTER**	
	- Jones Day (our outside trademark counsel who helps maintain registrations worldwide) - MarkMonitor (service provider for identifying infringement and managing domains)	- Maintained Foundation registrations and domains worldwide, and defended them against wrongful legal and administrative challenges, including those from government offices and third parties globally.
	NEXT QUARTER	
	- Jones Day - MarkMonitor	Same

STATUS: IN PROGRESS

CHECK IN
Oct 2016

TEAM/DEPT
Legal

PROGRAM
1 [LINK]

WIKIMEDIA
FOUNDATION
ANNUAL PLAN

GOAL: Protect project trademarks

What is your objective / workflow?	Who are you working with?	What impact / deliverables are you expecting? And what did you learn?
Support mission-based community use	**LAST QUARTER**	
	Comms (occasional need for review)	- Advised individual community members, user groups, chapters, and others on the application of our open Trademark Policy, with a goal of supporting the communities' work in furtherance of their mission
	NEXT QUARTER	
	Comms (occasional need for review)	Same

STATUS: IN PROGRESS

Licensed a segment on getting to philosophy for the BBC Documentary "The Joy of Data."

Approved logos for the Wikimedians of Iowa user group.

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IOWA
WIKIMEDIANS
A Wikimedia User Group

CHECK IN
Oct 2016

TEAM/DEPT
Legal

PROGRAM
1 [**LINK**]

WIKIMEDIA FOUNDATION ANNUAL PLAN

GOAL: Protect project trademarks

What is your objective / workflow?	Who are you working with?	What impact / deliverables are you expecting? And what did you learn?
Grant mission-oriented licenses	**LAST QUARTER**	
	- Comms (occasional need for review)	- Reviewed requests to use trademarks and drafted licenses when uses furthered or promoted the mission
	NEXT QUARTER	
	- Comms (occasional need for review) - Wikimania 2017 organizers	- Continue reviewing license requests and draft licenses as appropriate to allow mission-aligned uses of the marks - Update license template to improve clarity and account for more potential uses of the marks - Finalize Wikimania 2017 agreement to allow use of the marks at Wikimania

STATUS: IN PROGRESS

CHECK IN
Oct 2016

TEAM/DEPT
Legal

PROGRAM
1 [**LINK**]

WIKIMEDIA FOUNDATION ANNUAL PLAN

GOAL: Protect project trademarks

What is your objective / workflow?	Who are you working with?	What impact / deliverables are you expecting? And what did you learn?
Enforce against misuse of marks	**LAST QUARTER**	
	- Freelance job site - MarkMonitor (service provider for identifying infringement and managing domains)	- Developed relationship with a freelance job site to streamline takedowns to reduce improper paid editing on the projects - Sent cease and desist letters to those misusing Wikimedia trademarks
	NEXT QUARTER	
	- Freelance job sites - MarkMonitor	- Build relationships with additional freelance job sites to curb improper paid editing - Continue to send cease and desist letters to curb misuse of trademarks

STATUS: IN PROGRESS

CHECK IN
Oct 2016

TEAM/DEPT
Legal

PROGRAM
2 [LINK]

WIKIMEDIA
FOUNDATION
ANNUAL PLAN

GOAL: Support community members who are facing unfair litigation

What is your objective / workflow?	Who are you working with?	What impact / deliverables are you expecting? And what did you learn?
Administer the Defense of Contributors Program and the Legal Fees Assistance Program	**LAST QUARTER**	
	- SuSa - Outside counsel	- Supported litigation brought against good-faith users of the projects with an eye towards funding cases that advance the mission and values of the Wikimedia movement
	NEXT QUARTER	
	- SuSa - Outside counsel	Same

STATUS: IN PROGRESS

CHECK IN
Oct 2016

TEAM/DEPT
Legal

PROGRAM
5 [LINK]

WIKIMEDIA
FOUNDATION
ANNUAL PLAN

GOAL: Fight censorship and report on efforts to modify content or obtain user data

What is your objective / workflow?	Who are you working with?	What impact / deliverables are you expecting? And what did you learn?
Resist demands to remove content or provide nonpublic user information	**LAST QUARTER**	
	- SuSa - Outside counsel (on occasion) - Comms	- Carefully evaluated all requests to remove/alter content or for nonpublic user info and pushed back in inappropriate cases
	NEXT QUARTER	
	- SuSa - Outside counsel (on occasion) - Comms	Same

STATUS: IN PROGRESS

CHECK IN
Oct 2016

TEAM/DEPT
Legal

PROGRAM
5 [LINK]

GOAL: Fight censorship and report on efforts to modify content or obtain user data

What is your objective / workflow?	Who are you working with?	What impact / deliverables are you expecting? And what did you learn?
Publication of biannual Transparency Report	**LAST QUARTER**	
	- Outside engineering contractor - Comms - SuSa	- Published Jan-Jun 2016 Transparency Report to shine light on the types of legal demands we receive and how we respond
	NEXT QUARTER	
	N/A	- N/A - Next report in Q3

STATUS: IN PROGRESS

CHECK IN

Oct 2016

TEAM/DEPT

Legal

PROGRAM

3 [LINK]

WIKIMEDIA
FOUNDATION
ANNUAL PLAN

GOAL: Ensure that the communities retain their editorial discretion with respect to project content

What is your objective / workflow?	Who are you working with?	What impact / deliverables are you expecting? And what did you learn?
Investigate inquiries swiftly and aggressively	**LAST QUARTER**	
	- CE	- Coordinated requests for advice from community groups - Defended removal demands from outside parties
	NEXT QUARTER	
	- CE	Same

STATUS: IN PROGRESS

CHECK IN
Oct 2016

TEAM/DEPT
Legal

PROGRAM
4 [LINK]

GOAL: Public policy: Address issues of future importance to the projects

What is your objective / workflow?	Who are you working with?	What impact / deliverables are you expecting? And what did you learn?
Coordination and identification	**LAST QUARTER**	
	- CE	- Completed public copyright strategy consultation to identify and prioritize copyright issues important to the movement
	NEXT QUARTER	
	- Comms - T&C - Admin & OIT	- Set up policy newsletter to better inform the community and allies about Wikimedia policy work - Host speaker event on digital policy topic to bring awareness to policy issues important to the movement

STATUS: IN PROGRESS

CHECK IN
Oct 2016

TEAM/DEPT
Legal

PROGRAM
4 [[LINK]]

GOAL: Public policy: Address issues of future importance to the projects

What is your objective / workflow?	Who are you working with?	What impact / deliverables are you expecting? And what did you learn?
Planning, drafting, and execution (Part I)	**LAST QUARTER**	
	- Comms - Travel - Internet & Jurisdiction	- Responded to the newly released EU Copyright reform package to explain its potential impact on Wikimedia projects and free knowledge - Participated in Internet & Jurisdiction Conference agenda-setting meeting to ensure WMF issues are addressed in Nov. conference
	NEXT QUARTER	
	- Comms - Travel - Internet & Jurisdiction	- Update content on public policy portal with community input to reflect work we have done in the past year and provide accurate information for volunteers

STATUS: IN PROGRESS

CHECK IN
Oct 2016

TEAM/DEPT
Legal

PROGRAM
4 [**LINK**]

WIKIMEDIA
FOUNDATION
ANNUAL PLAN

GOAL: Public policy: Address issues of future importance to the projects

What is your objective / workflow?	Who are you working with?	What impact / deliverables are you expecting? And what did you learn?
Planning, drafting, and execution (Part II)	**NEXT QUARTER** - Comms - Travel - Internet & Jurisdiction	- Publish policy resource on the value of free licensing to help Wikimedians explain the topic to policymakers - Publish policy resource on non-commercial clause to provide a clear, accessible explanation of why adding it to new copyright exceptions is harmful for free knowledge - Monitor and publish on EU Copyright reform to create awareness for our proactive asks - Participate in Internet & Jurisdiction Conference to protect Wikimedia interests in new potential jurisdictional framework

STATUS: IN PROGRESS

CHECK IN
Oct 2016

TEAM/DEPT
Legal

PROGRAM
4 [[LINK](#)]

GOAL: Public policy: Address issues of future importance to the projects

What is your objective / workflow?	Who are you working with?	What impact / deliverables are you expecting? And what did you learn?
Expand policy policy network and awareness of WMF policy efforts (Part I) (Unplanned workflow)	**LAST QUARTER** - Nordic Centre for Internet & Society - Copia - Reddit - Fight For The Future	- Gave a keynote at the launch of the Nordic Centre for Internet & Society (Oslo) to introduce awareness of free knowledge and online collaboration to the research agenda - Gave input at launch of informal copyright reform alliance convened by Copia/Techdirt to make sure the needs of free knowledge are incorporated - Provided our views on copyright issues in TPP in a Reddit AMA organized by Fight For The Future to raise awareness of our stance

STATUS: IN PROGRESS

CHECK IN
Oct 2016

TEAM/DEPT
Legal

PROGRAM
4 [[LINK](#)]

GOAL: Public policy: Address issues of future importance to the projects

What is your objective / workflow?	Who are you working with?	What impact / deliverables are you expecting? And what did you learn?
Expand policy policy network and awareness of WMF policy efforts (Part II) (Unplanned workflow)	**NEXT QUARTER**	
	- Wikimedia DC	- Hold workshop at Internet Governance Forum 2016 to build alliance for policy around Wikipedia as a public space - Present panel at WikiConference North America to increase awareness & understanding of policy work; engage w/ community

STATUS: IN PROGRESS

CHECK IN
Oct 2016

TEAM/DEPT
Legal

PROGRAM
4 [LINK]

WIKIMEDIA
FOUNDATION
ANNUAL PLAN

GOAL: Public policy: Address issues of future importance to the projects

What is your objective / workflow?	Who are you working with?	What impact / deliverables are you expecting? And what did you learn?
Providing support to aid communities in response to gov't and other censorship (Unplanned objective)	**LAST QUARTER**	
	- Berkman Klein Center	- Completed censorship study describing the accessibility of Wikipedia around the world, providing more visibility into potential access issues facing our communities around the world and allowing us to proactively strategize ways to assist them
	NEXT QUARTER	
	N/A	- N/A - Next deliverables in Q3

STATUS: IN PROGRESS

CHECK IN
Oct 2016

TEAM/DEPT
Legal

PROGRAM
None [LINK]

WIKIMEDIA
FOUNDATION
ANNUAL PLAN

GOAL: Provide core legal support for the Foundation

What is your objective / workflow?	Who are you working with?	What impact / deliverables are you expecting? And what did you learn?
Evaluate and improve our data retention practices to ensure we are storing information safely	**LAST QUARTER**	
	-All teams	- Continued to work to draft, enact, and ensure compliance with best practices for privacy
	NEXT QUARTER	
	Same	Same

STATUS: IN PROGRESS

CHECK IN
Oct 2016

TEAM/DEPT
Legal

PROGRAM
None [LINK]

WIKIMEDIA
FOUNDATION
ANNUAL PLAN

GOAL: Provide core legal support for the Foundation

What is your objective / workflow?	Who are you working with?	What impact / deliverables are you expecting? And what did you learn?
Provide useful information about our privacy practices to community members and the public	**LAST QUARTER**	
	N/A	- Answer questions from the community & public about our privacy practices
	NEXT QUARTER	
	- CE	- Update information on survey privacy practices, to provide community members conducting surveys with useful information - Create privacy training for community admins to raise awareness of WMF and community policies

STATUS: IN PROGRESS

CHECK IN
Oct 2016

TEAM/DEPT
Legal

PROGRAM
None [LINK]

WIKIMEDIA
FOUNDATION
ANNUAL PLAN

GOAL: Provide core legal support for the Foundation

What is your objective / workflow?	Who are you working with?	What impact / deliverables are you expecting? And what did you learn?
Negotiate, review, and approve contracts the Foundation signs	**LAST QUARTER**	
	- All departments needing contracts - Outside vendors	- Protected WMF and minimized risk through contractual agreements
	NEXT QUARTER	
	- All departments needing contracts - Outside vendors	- Continue to protect WMF and minimize risk through contractual agreements

STATUS: IN PROGRESS

MOU with Wikimedia Germany to fund Wikidata software (cross-team effort)

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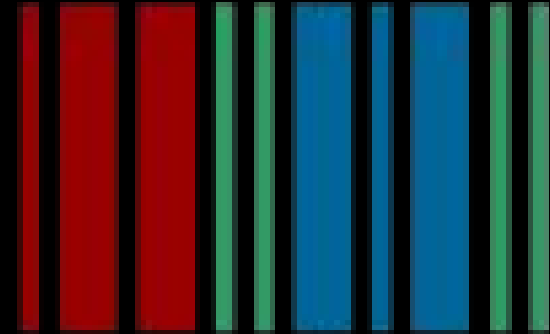
CHECK IN
Oct 2016

TEAM/DEPT
Legal

PROGRAM
None [LINK]

WIKIMEDIA
FOUNDATION
ANNUAL PLAN

GOAL: Provide core legal support for the Foundation

What is your objective / workflow?	Who are you working with?	What impact / deliverables are you expecting? And what did you learn?
Train Foundation staff on legal policies and procedures	**LAST QUARTER**	
	-All teams	- Plan and conduct staff training on legal issues
	NEXT QUARTER	
	-All teams	- Plan and conduct staff training on legal issues

STATUS: IN PROGRESS

CHECK IN

Oct 2016

TEAM/DEPT

Legal

PROGRAM

None [LINK]

WIKIMEDIA
FOUNDATION
ANNUAL PLAN

GOAL: Provide core legal support for the Foundation

What is your objective / workflow?	Who are you working with?	What impact / deliverables are you expecting? And what did you learn?
Support the Board of Trustees	**LAST QUARTER**	
	- ED - Board	- Supported scheduled Sept. Board meeting
	NEXT QUARTER	
	- ED - Board	- Support for scheduled Nov. Board meeting - Update Board on results of CC 4.0 consultation

STATUS: IN PROGRESS

CHECK IN

Oct 2016

TEAM/DEPT

Legal

PROGRAM

None [LINK]

WIKIMEDIA
FOUNDATION
ANNUAL PLAN

GOAL: Provide core legal support for the Foundation

What is your objective / workflow?	Who are you working with?	What impact / deliverables are you expecting? And what did you learn?
Update Wikipedia copyright license to Creative Commons 4.0	**LAST QUARTER**	
	- CE - Comms - Creative Commons	- Open consultation (continuing through Q3) to determine if communities support change to 4.0
	NEXT QUARTER	
	- CE - Comms - Reading (desktop, mobile web, and apps)	- Close consultation and manage upgrade (if community approval obtained)

STATUS: IN PROGRESS

CHECK IN

Oct 2016

TEAM/DEPT

Legal

PROGRAM

None [LINK]

WIKIMEDIA
FOUNDATION
ANNUAL PLAN

GOAL: Provide core legal support for the Foundation

What is your objective / workflow?	Who are you working with?	What impact / deliverables are you expecting? And what did you learn?
Provide general advice and support to other departments	**LAST QUARTER**	
	- Advancement - Comms - Finance and Administration - Product - Tech - CE - Partnerships - T&C	Conducted thorough research and provide pragmatic legal and policy advice to all teams as needed, for example: ● Reviewed media inquiries with legal components ● Provided product counseling ● Reviewed terms for and provided guidance on how to align potential partnerships with our values
	NEXT QUARTER	
	Same	Same

STATUS: IN PROGRESS

CHECK IN

Oct 2016

TEAM/DEPT

Legal

PROGRAM

None [LINK]

WIKIMEDIA
FOUNDATION
ANNUAL PLAN

DEVIATIONS FROM PLANS

- map of organizations supporting policy in the Wikimedia movement (postponed to Q4; working with Comms)
- update to public policy portal with community input (pushed from Q1 to Q2)
- speaker event on digital policy topic (pushed from Q1 to Q2; working with Comms)
- censorship toolkit (postponed until Q3; working with Berkman)
- community admin privacy training (pushed from Q1 to Q2; awaiting CE feedback)
- Wikipedia Library TOU/privacy statement (written; awaiting Security review)
- update information on privacy practices for surveys conducted by the communities (pushed from Q1 to Q2)
- begin CC 4.0 upgrade consultation (completed early Oct. instead of late Sept.)

Appendix A:
FY 2016-2017
Annual Plan (Legal)

WIKIMEDIA
F O U N D A T I O N

Program 1: Protect project trademarks and practices

Goal: Protect project trademarks

- **Objective 1 – Support mission-based community use**

  - Continue to advise individual community members, user groups, chapters, and others on the application of our open [Trademark Policy](#), with a goal of supporting the communities' work in furtherance of their mission. This policy was created in [consultation](#) with community members in 2013, provides an easy-to-use guide to facilitate community use of the project marks. It allows for expansive use of the trademarks, but it still preserves the goodwill attached to them as a sign of high-quality Wikimedia content.

- **Objective 2 – Granting mission-oriented licenses**

  - We receive requests to use project trademarks in contexts from t-shirts to popular movies and television. Consider each request and selectively grant trademark licenses to promote the project brands in contexts that will uphold their community-built reputation and attract new users consistent with our mission.

Program 1: Protect project trademarks and practices

Goal: Protect project trademarks

- **Objective 3 – Enforcement against misuse of marks**
  - Defend the community-entrusted marks to help ensure their good reputation. Send cease and desist letters relating to deceptive or improper use of the marks on- and offline. To fight cybersquatters and fraudulent use, file World Intellectual Property Organization (WIPO) actions, when appropriate, to protect the reputation vested in the project marks.

- **Objective 4 – Maintain and defend project marks worldwide**
  - As part of our overall program, maintain project trademark registrations and domains worldwide, and defend them against wrongful legal and administrative challenges, including those from government offices and third parties globally.

Program 2: Support community members in unfair litigation while defending our mission

Goal: Support community members who are facing unfair litigation

- **Objective 1 – Administer the Defense of Contributors Program**

  - Administer the [Defense of Contributors Program](#) to provide support and funding when a contributor is sued in relation to their legitimate activities on the projects.

- **Objective 2 – Administer the Legal Fees Assistance Program**

  - Administer the [Legal Fees Assistance Program](#) to provide support and funding when a community member who serves in an administrative or governance function is sued in relation to their legitimate activities on the projects.

Program 3: Protect the communities' discretion in determining proper content

Goal: Ensure that the communities retain their editorial discretion with respect to project content

- **Objective 1 – Investigate inquiries swiftly and aggressively**
  - Quickly and thoroughly respond to inquiries via the "legal@" email queue. Oppose unfounded demands in appropriate venues, including the courtroom. Explain to requesters how the projects and the communities work. Suggest community solutions to content issues when possible. Remove content only when required by facts and law.

Program 4: Join with the Wikimedia communities in advocating for policy positions relevant to the work of the communities

Goal: Address issues of future importance to the projects

- **Objective 1 – Coordination and identification**
  - Coordinate with members of the communities via the Public Policy Portal and Public Policy Mailing List to determine which issues should be addressed to best support the worldwide communities.

- **Objective 2 – Planning, drafting, and execution**
  - Work with community members to draft and submit public comments, assist in publicity campaigns, and take other actions so that decisionmakers are aware of the positions of the communities. Use the policy portal, mailing list, and Wikimedia Blog to report our actions and their outcomes in a way that encourages community participation. We expect to focus on: promoting the freedom of panorama and free licensing, continuing to oppose government censorship in various venues, and defending intermediary protection laws on which the projects depend.

Program 5: Maintain transparency in our defense of content and user privacy

Goal: Fight censorship and report on efforts to modify content or obtain user data

- **Objective 1 – Publication of biannual Transparency Report**
  - The Transparency Report details requests we receive to alter or remove content, and to obtain nonpublic user information, from governments, businesses, and others. Publish this report twice a year, approximately in February and July.

- **Objective 2 – Resist demands to remove content or provide nonpublic user information**
  - As noted above, when we receive requests to remove or alter project content, we will push back, unless otherwise compelled by facts and law. In 2015, we received 454 requests, and we denied all of them. Similarly, we will not provide nonpublic user data, unless confronted by legitimate legal process or emergency, as described in our requests for user information procedures and guidelines. In 2015, we received 48 requests for user data, 13 of which were informal requests from governments, and we denied all but one.

Non-Programs

In addition to the programmatic work set out above, part of our department's work and budget in FY16-17 will be focused on core legal support for the Foundation. Much of this core work will support programs in other departments. We will provide defense against inappropriate challenges targeting the Wikimedia Foundation, including through mitigation of legal threats and opposition to global litigation against the Foundation.

We will oversee our contract oversight and management, which necessitates the negotiation, review, and filing of about 275 contracts in FY16-17. These agreements are received almost daily from all departments, and vary vastly in complexity and topic area.

As in other years, in FY16-17, we will maintain the Wikimedia Foundation organizational trademark, provide HR legal support, and ensure compliance and daily advice in various areas, such as global fundraising, copyright, privacy and security, and intermediary liability requirements. We will support our engineers with ongoing technical advice on a variety of issues including open source licensing, mobile device regulations, and user interface design questions, including initiatives like "privacy by design." We will also address movement governance issues and provide Board support, including providing advice on legal and other matters, as set out in the Board Handbook.

We plan to launch more trainings to keep staff informed on a variety of topics, such as handling data breaches, dealing with legal holds, and copyright onboarding for those making videos and other media on behalf of the Foundation. We also anticipate updating the Board member onboarding process with new training materials.

Appendix B: Image Attribution

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