

Contracts: Documents Creating Context

By Carol E.B. Choksy, SLIS, Indiana University, Bloomington
cchoksy@indiana.edu
(317) 294-8329

Other than manuals, business documents had to be handwritten until the invention and mass marketing of the typewriter in 1874, specifically, the Remington No. 2. Much inventive effort was spent in the 19th century trying to create fast and reliable methods for copying business documents like the gel press and carbon paper. Technological solutions for writing and copying business documents more quickly arose in the late 19th century and early 20th century as management's need for a greater span of control and speedier communication arose. A great deal of ink is spilled and time is spent in library schools on "history of the book" and the history and preservation of great historical documents (a search on Google for "history of the document" reveals that "the document" is the Declaration of Independence"), but little effort is spent in exploring the document that inspired the creation of writing itself: the business document and specifically, the contract.

Contracts are instantiations par excellence of material culture. They embody and organize information, but they also create and define relationships. Unlike many other types of documents, semantic analysis is utterly unequipped to explain what contracts mean because contracts are by, for, and about context. Contracts are written culture's witness and actor for the creation of socially recognized bodies such as the family or a corporation. Contracts introduce new members of the family through adoption and new employees through employment agreements.

Even in literate cultures contracts do not have to be material, they can be verbal or even implied. Why do we prefer written contracts to other types? What is it about the physicality of the document that is important to us? The E-Sign Act in the U.S. raises other issues about the how material a contract is and what "signing" a contract constitutes.

Contracts are also defined and created by context. A legal system, a financial system, a customary system are necessary to fix what a contract is and what it does within a particular time and place. The characteristics of contracts that define and are defined by context is one of the most important features of every type of document.

This paper will examine how contracts reach out and organize context in addition the function as holders and organizers of information. We will look at the material nature of contracts and how the idea of verbal and implied contracts as well as the E-Sign Act both challenge and reinforce that materiality.