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# Paul Aiken

## *Twenty Years in the Thick of Things*

Paul Aiken came to the Authors Guild as a young lawyer in early 1993, at the invitation of the Guild's then new executive director, Robin Davis Miller, a former colleague at Kornstein, Veisz and Wexler, and a former mentee.

The publishing world had not yet heard of Jeff Bezos (who had not yet advertised for employees for his new venture "Cadabra"), and none of us had yet learned to google our way through the universe. The era of electronic publishing was well launched, nevertheless, and Robin and Paul understood it better than most.

"Robin said she had this great, marvelous friend," recalls Mary Pope Osborne, who was Guild president at the time. "He doesn't want to be a lawyer anymore and is working on a baseball calendar for Random House. We can put him in a back room on a per diem basis."

Into the "back room" he went at the Guild's old office, a warren of cubicles and zigzagging corridors in the McGraw Hill building on 42nd Street, and immediately began churning out ideas, speeches, analyses and attention-grabbing press releases.

"The first press release I wrote was in 1993 or 1994," Paul recalls, "and it was about a new Random House contract that included digital rights for the first time. Random House was offering to pay a measly 5 percent of proceeds for digital rights. We called it 'A Land Grab on the Electronic Frontier.' That line got picked up. There was a huge battle after that . . .

"The second press release I wrote was about a page-turning photocopy machine that a Japanese company had come out with. We pointed out that it 'took the drudgery out of copyright infringement.' We calculated how long it would take for the machine to scan David McCullough's *Truman*, a big book (in both senses). The 'drudgery' thing got picked up, too.

"What's funny is that these two press releases brought up the topics that we would revisit again and again over the next 20 years: publishers being cheap and unfair in paying for digital rights, and technology, particularly scanning technology, threatening to



undermine the entire book market."

In 1995, when Robin Davis Miller stepped down as executive director, Paul was the Council's first choice to replace her. He brought many talents to the job: a debater's skill for analysis and a litigator's talent for setting the scene, a passion for copyright, a sense of humor, a fascination with technology and a wonk's understanding of where it was taking authors, for better or worse. "He could dance rings around the rest of us on the technology front," says Nick Taylor, the fifth of seven Guild presidents Paul worked with over the years. "It was such a difficult knowledge base and

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**At times we had to try to persuade him that he couldn't do everyone's job; there were no boundaries on his commitment to the Guild, the hours he kept or his zeal. He is a complete mensch, a remarkably decent human being.**

**—Scott Turow, Authors Guild President  
1997–1998 and 2010–2014**

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skill set. People who had been in this business for a long time were at sea, but Paul constantly kept himself up-to-date. Nobody was outpacing him, which was a really great thing for the Guild, and we all ought to be grateful."

He had a matching gift for parsing subjects that gave headaches to most people, and for laying them out in clear and engaging English, sometimes with tongue in cheek. "He was the soul of patience," recalls Letty Cottin Pogrebin (Guild president from 2001 to 2005), "taking the time to deconstruct an arcane piece of legislation or a strategy that the Guild was taking on. He took calls with equanimity. His voice didn't express impatience or exhaustion; he was always willing to bring clarity to whoever needed it."



From left, former Authors Guild president Scott Turow, Paul Aiken and Guild general counsel Jan Constantine.

"I'd like to talk about baseball for a moment," is how he began a 1994 presentation to the White House Working Group on Intellectual Property Rights, playing off the controversial exemption from antitrust regulations the major leagues had long enjoyed and which Internet absolutists seemed to think should apply to their online borrowings of other people's labors.

"It seems so harmless," he continued. "A few taps on a keyboard and up pops a book. A quick scroll through a few pages and there it is. The information you seek. Read it, maybe take some notes on it or clip it for a term paper, and you no longer need that book. A few more taps on the keyboard and it disappears. The original copy . . . still resides on some file server, perfect, untainted. Shouldn't that simple acquisition be free? Who is harmed?"

In his first three years as executive director, Paul somehow found time to write a column for the *Bulletin* called "Guild Matters." It touched on any and everything of conceivable professional interest to writers: "monumentally impenetrable" royalty statements, whose true message was that "the author should not expect a royalty check anytime soon"; a proposed hike in Copyright Office registration fees under which "freelance journalists in the habit of registering their articles stand to lose the most"; and distance learning, which depended on material produced by writers, but "Here's the catch: the education lobby would prefer to have these materials—in the form of your copyrighted works—for free."

When he wasn't working out legal strategy or crafting winning analogies between the art of writing and the manufacture of a Buick chassis, he was dreaming up innovative programs that would pay off for au-

thors in the here and now. In 1994, a full decade before Google began appropriating "orphaned works," Paul came up with the idea of an "ASCAP" for writers: a comprehensive authors directory that would make it easier for magazine publishers, movie producers, electronic media publishers and editors of serious collections and oddments to locate authors whose work they wanted to develop, reprint, quote or reissue—and an accounting system to go with it. The result was the Authors Registry, now in its 20th year of operation, still providing a steady stream of payments to authors. *Authorsguild.org* launched in 1998, *Back in Print* in 1999 and *Sitebuilder* in 2002.

Paul's two decades as executive director overlapped a period of unprecedented change in the publishing business: serial mergers of once independent publishing houses, high-speed scanners, digitization, the devaluating effect of e-book pricing on books overall, widespread book piracy, the decline of independent bookstores, the rise of Amazon and Google. His response to each new development was: What does it mean for authors?

"Paul's laser focus on issues that affect authors has always been absolutely clear," says Nick Taylor, president of the Guild from 2002 to 2008. "We really got pilloried as 'Luddites' for not embracing the new paradigms without reservation, for not wanting 'information to be free.' But as hard as it was to make the case, Paul had utterly clear vision. He always had the constitutional implications in mind: no matter how books are copied or conveyed, it's still intellectual property. The notion that information wants to be free doesn't convey the right to say what authors' or musicians' or photographers' work is worth."

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*The Authors Guild, the oldest and largest association of published authors in the United States, works to protect and promote the professional interests of its members. The Guild's forerunner, The Authors League of America, was founded in 1912.*

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In the Google case, now entering its 10th year, and in HathiTrust, the issue was clear: the wholesale appropriation of authors' work without permission or compensation had to be challenged. A \$125 million settlement agreed to by all parties to the Google suit in 2008 came close to resolving the case, but was overruled in 2011 by U.S. Circuit Court judge Denny Chin.

"Even though the Google settlement didn't work out," Paul reflected last fall, "it should have. I'm proudest of that, because it set a template that's likely to be followed for digital libraries, at least in this country. . . . [Google and the universities] acted out of good intentions, I'm convinced of that. But there's a proper way to do things, taking into account all of the stakeholders, including, especially, the authors. Copyright is built around authorship. Copyright is authors' and artists' ticket to play in the free market system, and it must be protected."

"Paul is just an absolutely first-rate intellectual property rights lawyer," says Scott Turow. "He always had the enormous intellectual capacity to understand what was going on. As years went on, he was more able to express his passion on the variety of authors' causes for which the Guild stands up. At times we had to try to persuade him that he couldn't do everyone's job; there were no boundaries on his commitment to the Guild, the hours he kept or his zeal. He is a complete mensch, a remarkably decent human being."

For more than 20 years, authors were Paul's constituency, protecting authors was his mission, and he saw it as an honor. "Authors are often considered very complicated people," he said at a Google-related press conference in 2008. "We don't agree with that. In fact, I can tell you what all authors like: they like their books to be read, and except for the most financially perverse of authors, they like a good royalty check." ♦