

**STATEMENT OF LIBRARY COPYRIGHT ALLIANCE
WIPO STANDING COMMITTEE ON COPYRIGHT AND RELATED RIGHTS
TWENTIETH SESSION
GENEVA, 21-24 JUNE, 2010**

Thank you, Mr. Chairman, for the opportunity to speak on behalf of the Library Copyright Alliance, that represents over 139,000 academic, research and public libraries in the United States in providing library services and promoting the public interest. We congratulate you and the vice chairs on your election to lead this important committee.

First, we believe that a meaningful solution can be found within a reasonable time frame to facilitate access for blind and reading disabled persons. We very much appreciate the draft consensus instrument proposed by the United States and the U.S. commitment to achieving an international consensus on cross-border distribution. We understand that the U.S. views this proposal as a first step toward facilitating accessibility, and welcome the new possibilities that the proposal would create.

It is also essential that WIPO adopt an instrument to expand limitations and exceptions in national laws. This has been recognized by the U.S. and is addressed by the E.U. in Article 2 of its draft joint recommendation. We appreciate the E.U. proposal for its broad scope and its inclusive definition of disability, although we find many of its conditions too restrictive. In general we oppose any instrument on exceptions that establishes a ceiling on what is permissible. There should be discussion of minimum standards, not maximum standards—what countries can do, not what they cannot do.

The initial treaty proposal by the World Blind Union introduces an exception for making and supplying an accessible format, and it enables export and import. We believe that any solution adopted by WIPO should be brought as close as possible to the treaty proposal of Brazil, Ecuador, Mexico, and Paraguay. We encourage discussion toward a binding instrument that could be developed within a time frame corresponding to the proposal of the co-sponsors for a diplomatic conference in 2012.

In addition, we need a broader agenda on limitations and exceptions as a parallel activity within the committee. Exceptions for libraries, archives, and education need immediate attention. We appreciate the proposal of the African Group that presents a fuller set of limitations and exceptions that need to be addressed by WIPO. It offers great promise for a comprehensive solution.

There are no provisions in any international instrument underlying the responsible work that libraries and archives must do to keep information alive and circulating. We need to ensure that libraries may, as

trusted repositories, preserve copyrighted works, including retracted and withdrawn works. We need to ensure that library lending exists globally to drive creativity, innovation and social progress; and to further education, research, and private study; and that libraries are able to provide works to users for personal or private purposes. We need to enable uses of orphan works. The world is saturated with information that cannot be used by the public and this is unacceptable. We need provisions stipulating that private licensing and technological protection measures should not prevent uses that copyright law has long intended to support, and in the networked environment we need evolutionary cross-border provisions. All nations would benefit from a free use provision that enables uses in accordance with fair practice, such as the flexible fair use provision in the U.S.

In 2008 U.S. academic libraries spent about \$2.7 billion on information resources. Nearly half (49 percent) of academic libraries reported providing technology to assist patrons with disabilities in Fall 2008.¹ In 2007, U.S. public libraries spent \$1.3 billion for library collections.² Libraries need to be able to use the materials which they purchase for the benefit of the public that needs them and funds them.

Finally, on the issue of protection of broadcasting organizations, the U.S. library community is opposed to the proposal for a broadcast treaty. We have concerns regarding the re-protection of content, including public domain content, that could be facilitated through such an instrument, and oppose any form of a treaty.

In conclusion, equality of access should override every other consideration in the matter of limitations and exceptions for blind and reading disabled persons. Enabling libraries and archives to preserve the copyrighted works that fall within the scope of WIPO treaties, and to encourage uses of them, is also WIPO's challenge. The needs of education demand realistic solutions for the 21st century, particularly in accordance with the goals of the WIPO Development Agenda. These are primary responsibilities for WIPO in moving forward on the issue of copyright limitations and exceptions. Thank you, Mr. Chairman, for the opportunity to present our comments at this meeting.

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1. Phan, T., Hardesty, L., Shekells, C., and Davis, D. (2009). *Academic Libraries: 2008* (NCES 2010-348). National Center for Education Statistics, Institute of Education Sciences, U.S. Department of Education. Washington, DC. (December 2009), <http://nces.ed.gov/pubs2010/2010348.pdf>.
 2. Institute of Museum and Library Services, *Public Libraries Survey, Fiscal Year 2007* (June 2009), http://harvester.census.gov/imls/pubs/pls/pub_detail.asp?id=122.

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