

STATEMENT FROM THE LIBRARY COPYRIGHT ALLIANCE

ON

EXCEPTIONS AND LIMITATIONS

WIPO STANDING COMMITTEE ON COPYRIGHT AND RELATED RIGHTS SIXTEENTH SESSION, GENEVA, 10-12 MARCH 2008

Mr. Chairman, the Library Copyright Alliance appreciates the opportunity to speak before this forum about an issue that is so central to libraries and the public. We are a coalition of the five major U.S. library associations offering this statement regarding copyright exceptions and limitations. When examining minimum limits, we encourage Member States to involve the international community of libraries when establishing norms that do not limit the rights of the public to use information for the advancement of learning and knowledge creation.

The effectiveness of the U.S. copyright system is rooted in the effective balance between the rights of users' to access information and the interests of rights holders. Limitations and exceptions to copyright are the legal mechanisms necessary to achieve this balance. The U.S. Copyright Office has advanced the importance of limitations and exceptions by conducting a two year study on Section 108 of the U.S. copyright law to update reproduction, preservation, and replacement exceptions for libraries and their users that better reflect the realities of the digital environment. In addition, the U.S. Copyright Office has proposed legislation that would enable the public (including libraries, educational institutions, individuals and commercial interests) to use "orphan works," those protected works whose rights holders cannot be found or identified after a reasonable search for them has been conducted. When or if rights holders later present themselves, the remedies for the use of their works would be limited. A Congressional subcommittee is holding a hearing on this issue this Thursday. These actions demonstrate the United States' continued commitment to the development of exceptions that facilitate the public's right to use information to advance knowledge and learning.

The United States saw the need for a broad exemption – fair use – that recognizes that the formats and delivery mechanisms of knowledge will change over time and that copyright exceptions should be viewed in light of their situational use. For example, the publishing industry regularly asserts fair use when incorporating content from earlier works. Likewise, a computer scientist relies on fair use when reverse engineering a computer security threat. Fair use advances free speech and the right to free inquiry for citizens, students, scholars, and creators alike. We urge nation members to consider the importance of a broader, situation-based exemption, like fair use, which ultimately benefits both rights holders and users of information.

As a reminder, libraries do not come to these forums to represent only themselves but also to represent the interests of the public they serve. Nonetheless, U.S. libraries' commitment to creators will never be compromised. As a primary purchaser of information products and services, libraries demonstrate through their purchasing power the importance of and need for creators to receive compensation for their work.

These economic incentives, however, are meaningless if the public interest is not guaranteed. We respectfully submit that copyright law requires that economic rights have limits – not to the detriment of the content industry, but to ensure the purpose of copyright law to advance creativity and knowledge in the interests of all.

Thank you once again for this opportunity to share our views and expertise on this critical issue.

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