

International Copyright Policy on warp speed

by Carrie Russell, director of program on public access to information for OITP

National copyright legislation is difficult to pass because the competing interests of users of information and rights holders cannot be resolved. Orphan works legislation is a good example—legislation introduced two times in Congress with competing bills in both the House and the Senate but no final outcome. In all honesty, it is often preferred that nothing happen because the legislation is flawed, not meeting the needs of library users.

Typically, crafting international copyright law is even slower than molasses, but for the last two years, the World Intellectual Property Organization (WIPO) has been swift to move forward, even engaging in “text-based negotiations” of legal instruments, in other words, writing treaties or other binding laws that, if passed, must be implemented in national law. In fact, this is how the Digital Millennium Copyright Act (DMCA) came to fruition in the United States.

There is reason for cautious optimism since WIPO is focused on not only strengthening enforcement mechanisms to curb infringements, but also expanding the exceptions aspects of copyright law to ensure broader user rights across the world. If WIPO chooses to expand exceptions internationally, the direct beneficiaries will be other nations, particularly least developed countries. What we will gain is the right to share information with other nations with less uncertainty, particularly the provision of accessible copies to people with print disabilities in other nations.

In November, WIPO closed its latest copyright meeting with a two-year work plan to improve access to the print disabled and to

identify potential library exceptions in international treaty agreements. A commitment to a legal instrument to improve access for the print disabled could come as soon as September 2011 at the WIPO General Assembly.

The U.S. library community was well represented by the Library Copyright Alliance (LCA)—of which ALA and ACRL are members—and internationally by the International Federation of Library Associations and the Electronic Information for Libraries. The LCA statement to the Society for Cross-Cultural Research urged “the Member States to focus on the twin issues of a national exception for countries that currently lack an exception (for persons with disabilities), and the cross-border distribution of works” as well as “the development of a core set of library limitations and exceptions necessary to sustain a global information society.”

The U.S. Delegation to WIPO, led by Justin Hughes, Under Secretary of Commerce in the United States Patent and Trademark Office emphasized the need to address the issue of cross border sharing of accessible copies. Under international copyright law, member nations of WIPO cannot send accessible copies like Braille, large print, and audio texts to people with print disabilities in other nations. Known as the “book famine,” only 1 percent of published materials are available to developing and least developed nations. This immediate problem is directly linked to another associated WIPO priority, the “Development Agenda” that has identified access to educational and informational materials as a necessary means toward the achievement of material progress and welfare of developing nations. In addition, WIPO continues work on a legal instrument to protect “traditional cultural expressions,” which includes many of the creative works prepared by indigenous people. ALA is closely tracking proposals to ensure that the public domain is protected and to allow for copyright exceptions and limitations. ¶¶

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