

Library Exceptions: An Elusive Quest?

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The Context of “Library Exceptions”

- Structure of Copyright Law
 - Grants Right to Owners
 - Permits Limitations or Exceptions
- Berne Convention:
 - Article 2: Extends protection to literary and artistic works.
 - Article 9(2): Exceptions consistent with the “Three-Step Test”

Berne: The Three-Step Test

- Article 9(2): “It shall be a matter for legislation in the countries of the Union to **permit the reproduction** of such works in **certain special cases**, provided that such reproduction does **not conflict with a normal exploitation** of the work and does **not unreasonably prejudice the legitimate interests of the author.**”

TRIPs: The Three-Step Test

- Article 13: “Members **shall confine limitations or exceptions** to exclusive rights to certain special cases which do not conflict with a normal exploitation of the work and do not unreasonably prejudice the legitimate **interests of the right holder.**”

The Diversity of “Library Exceptions”

- General Exceptions for Library Copying
 - Includes Administrative Copying
- Research or Study
 - Making Available
- Preservation or Replacement
- Document Delivery and ILL

The Diversity of “Library Exceptions”

- Copy Machines on Premises
- Limitation on Remedies
- Exception to Anticircumvention Statutes

The WIPO Study

- WIPO: 184 Member Countries
- Located: Statutes from 149 Countries
- No Library Exception: 21 Countries
- Solely General Exception for Libraries: 27 Countries

Subject of Library Exceptions

- Copying for Research or Study
 - 74 Countries
- Copying for Preservation
 - 72 Countries
- Copying for Replacement
 - 67 Countries
- Document Supply: 17 Countries
- ILL: 6 Countries
- Anticircumvention: 26 Countries

Diversity Among the Library Exceptions

For Example: Copies for Research or Study

- Copies for Users
- Limited to Research or Study
- Proof of User's Purpose
- Limited Types of Works
- Unpublished Works
- Making Available on Premises
- Availability of Licenses
- Digital Formats

Diversity Among the Library Exception

For Example: Preservation or Replacement

- Single or Multiple Copies
- Damage to or Condition of the Work
- From or for Permanent Collection of the Library
- Deposit in Another Library
- Availability of the Work on Market for Purchase
- Digital Formats

Underlying the Diversity and Trends

- Political Realities
- Competing Interests
- Economic & Cultural Values
- History (British Imperial Statute)
- Regional Agreements
 - European Union
 - Bangui Agreement
- Model Copyright Act

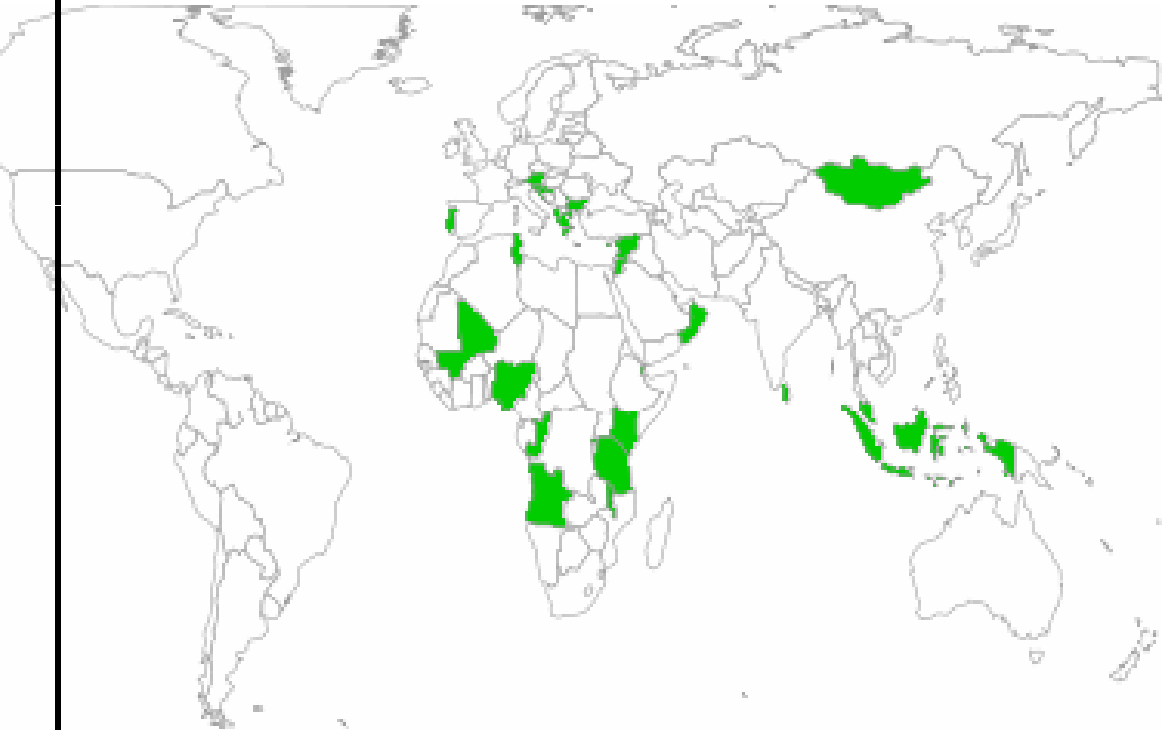
No Library Exception

Argentina
Brazil
Burkina Faso
Burundi
Cameroon
Chile
Costa Rica
Cote d'Ivoire
Democratic Rep. of
Congo
Guinea
Haiti
Iraq
Kuwait
Libyan Arab Jam.
Namibia
San Marino
Senegal
Seychelles
Swaziland
Togo
Yemen



General Library Exception

Albania	Lesotho
Angola	Malawi
Austria	Malaysia
Bulgaria	Mali
Cape Verde	Mongolia
Congo	Nigeria
Croatia	Oman
Cyprus	Portugal
Djibouti	Rwanda
Greece	Slovenia
Indonesia	Sri Lanka
Jordan	Syria
Kenya	Tunisia
	Tanzania



Reflections on Worldwide Library Exceptions

- Diversity of Subject Matter
- Variation in Details and Conditions
- Struggle with Technological Change
- Constraint of Competing Interests
- Economic Condition of Libraries
- Compensation to Rightsholders
- Implementation & Education

Thank You!

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