



## Committee on Copyright and other Legal Matters (CLM)

### Country Report Japan

Annual report to the IFLA CLM committee  
Durban South Africa 2007

#### Introduction

Part from the Sub-Committee on Protection and Use of the Works in the Past, the Section on Copyright established three other sub-committees in March 2007 such as the Legal Structure Sub-Committee, the Private Sound and Video Recording Sub-Committee, and the International Sub-Committee. The Legal Structure Sub-Committee deals with the library copyright issues.

The Legal Structure Sub-Committee started the deliberation by succeeding the issues of limiting the copyright that were discussed in 2006. Particular issues related to library services were as follows:

(1) "Library materials" are defined in the Article 31 (Reproduction in Library and related institutions).

To this, the library materials borrowed from other library shall be included. In the past, the library materials in this context are defined to be those held by the reproducing library. This definition interdicted reproduction of materials that were borrowed from other library by means of inter-library loans. The Japan Library Association and other library associations urged the Agency for Cultural Affairs for inclusion as well as negotiated with copyright owners. As a result, a guideline was concluded with two copyright owners associations, and the reproduction of library materials borrowed from other library became in practice. The Legal Structure Sub-Committee monitors the activity and revision shall be made if and when necessary.

(2) Telefacsimile and e-Mail shall be applied when transmitting a work.

Wired or wireless transmission is defined to be of violation of the right of public transmission when so that the transmission of copyrighted material via either wired or wireless devices are not allowed between library and home as well as among libraries. The library community requests the Cultural Affairs Agency the wired or wireless transmission of library materials a least between libraries.

Negotiation between the library community and the right owner associations has not yet started.

(3) Printing of the Internet pages shall be allowed in library when the purpose is of research and study. In general, copyrighted materials on the Internet can be downloaded and printed for personal use. However, organizations such as library are currently not allowed to download or to print without permission of the Internet copyright owners. The library community is unable to find the counterpart of the negotiation on this matter, therefore the library community requests appropriate responses by the Cultural Affairs Agency, who with the same requests from other sectors, shall review and amend the current legal framework.

(4) Those library materials of which playback devices are rarely available shall be allowed to reproduce only on an exceptional basis for preservation purpose without permission of copyright owner.

At present, players for the 78 SP or the 33 LP sound recordings, or Beta video recorders are not easily available, but there are considerable amount of library holdings. Thence library community demands the media conversion of these old materials in exceptional basis for reproduction. Both sides arrived at a conclusion of no matter and the Cultural Affairs Agency is going to review the inclusion into the current law.

(5) Government publications such as publicity documents and reports shall be allowed to reproduce entirely.

Unlike the government publications of the Western nations, copyright is protected in case of government publication in Japan. Article 31 provides partial reproduction is available at library for patron in case of these government publications. The library community takes the position that "the government publications including the white papers, official statistics are created in purpose of public announcement for the interest of citizen," therefore the whole reproduction of these materials shall be allowed at library. For the library community, the negotiation partner of the issue is the government department. Having the support of copyright owners in private sector, the Cultural Affairs Agency promised to review.

(6) Facilities of sound recording shall be expanded among libraries for visual impairment, and other requests on behalf of impaired people.

With requests by welfare organizations for disabilities, the Legal Structure Sub-Committee will hold hearing sessions during July and August 2007.

#### **Law cases**

A case happened recently that an image was uploaded to the Internet for public auction of seizure (paint) from tax deadbeats, but without permission of the painter. The copyright judgment is under question, and the Legal Structure Sub-Committee will also take care of the case. This Sub-committee seems to be considerably busy.

With thanks.

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16 July 2007