

Statement of Principles on Copyright Exceptions and Limitations for Libraries and Archives (2009)

by **Electronic Information for Libraries, IFLA, and Library Copyright Alliance**

WIPO Standing Committee on Copyright and Related Rights
Eighteenth Session, Geneva, May 25-29, 2009

Introductory statement by Winston Tabb, Chair of CLM:

Thank you, Mr. Chairman.

Congratulations on your election as chair. I am speaking on behalf of the International Federation of Library Associations and also of Electronic Information for Libraries. We represent libraries and library associations around the world.

Libraries have played an essential role throughout history as repositories of works that comprise the cumulated knowledge, cultural heritage and collective memory of nations and peoples.

In many countries, copyright law, through exceptions and limitations, has long supported the essential functions of libraries through statutes that permit functions such as preservation. But these laws have not adequately kept pace for uses of digital information.

The international library community believes that there is an immediate need for Member States to include provisions in their national laws to address the realities of access to digital information. We have developed a set of 12 Principles for Copyright Exceptions and Limitations for Libraries and Archives that address many of the issues, including provisions for persons with disabilities, within the context of the work of this Committee. The document is available on the table outside.

We will speak briefly to just four of the principles to be considered in the formulation of copyright limitations and exceptions for libraries in national copyright laws, to enable libraries to fulfill their public mandate to support the advancement of knowledge and the public interest in the global digital environment.

1. Preservation

A library should be permitted to make copies of published and unpublished works in its collections for purposes of preservation, including migrating content to different formats.

The preservation exception should apply equally to all categories of copyrighted works, and to materials in all media and formats. Libraries should be allowed proactively to preserve materials at risk of deterioration, obsolescence, damage, or loss.

2. General free use exceptions applicable to libraries including reproduction for research or private purposes

Copying individual items should be permitted for research and study and for other private purposes. It would hamper the free flow of information in society if permission had to be obtained for each and every use.

General exceptions such as fair use and fair dealing should extend to library activities in the absence of a specific library exception.

3. Copyright term

Consistent with the Berne Convention, the term of copyright should be the life of the author plus 50 years, and once a work enters the public domain it should remain there, available for all to use. Term extensions keeps information remains under private ownership longer than defensible at the expense of the individuals whom libraries and educators serve.

4. Barriers to lawful uses

It should be permissible for libraries and their users to circumvent a technological protection measure for non-infringing uses of a work. Implementation of anti-circumvention legislation often effectively eliminates existing exceptions in copyright law.

A further barrier is caused by licenses that prohibit lawful use. The law of contract should not override the public law of copyright, but too many digital products are accompanied by licenses that prohibit lawful uses by libraries.

We urge WIPO to continue work on the areas identified in the proposal by Chile (SCCR/13/5).

We ask that WIPO consider concrete proposals for instruments that will guide IP administrations, explicitly aimed at expanding the array of available copyright exceptions and limitations globally, and in particular for developing countries.

We ask WIPO Member States to take action to address the gaps in copyright provisions for libraries and archives in their national laws. In doing so, Member States will promote the intellectual and creative life of their nations into the future.

Thank you, Mr. Chairman.

Winston Tabb
Chair of CLM