

INTELLECTUAL PROPERTY RIGHTS HONORS PAPER
ACCESSIBLE BOOKS CONSORTIUM

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Introduction:

Copyright" could be a term accustomed outline the legal ownership subsisting in numerous works that result from the intellect of the creator. The Copyright, styles and Patents Act 1988 was introduced to present legal protection to the creators of such works so as to forestall exploitation by others and to make sure creators' ethical rights. Copyright could also be sold or given away by the author (hence the copyright owner of a book will usually be the publisher).

Moral rights have become independent from the rights governing economic exploitation, however they are equally vital. These belong to the creator of the work and supply them with the correct to be known in and of itself (i.e. the correct to be acknowledged through referencing) and with the correct of integrity (i.e. to not be artful, for instance, through quote or adaptation)

Copyright protects: one. original literary, dramatic, musical or creative works. This includes laptop programs and databases; tables and compilations; images and drawings; and therefore the additional obvious instances of books and journals. These works never ought to be revealed in written form; electronic materials, e.g. Web pages, are protected.

Copyright doesn't shield a plan, it solely protects the fabric kind within which that concept is expressed. There is no copyright in a plan till it's been recorded, e.g. in written kind.

For literary, dramatic, musical or creative works the fabric should be original. Original implies that the fabric has to originate from the author, instead of

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being derived from another piece of labor. Some component of freelance talent or labour is needed, however that component needn't be nice.

Copying for educational functions: multiple repetition for academic purposes isn't permissible by the Act. However, variety of licensing arrangements are developed to change tutorial establishments to form copies of bound written materials and off-air recordings subject to strict conditions. Consult the relevant Licenses for details.

The city influential person pact could be a pact on copyright, adopted in city that permits for copyright exceptions to facilitate the creation of accessible versions of books and different proprietary works for visually impaired persons.

India's role in its implementation is hailed as model for different countries as a result of we have a tendency to adopted multi-stakeholder approach which has collaboration among government, non-public sectors, NGOs, civil societies etc.

India became the primary country to validate city pact. It initiated Flagship campaigns like 'Accessible India Campaign' to supply universal access to folks with disabilities.

India has Launched 'Sugamya Pustakalaya' that provides access to on-line books that counts 2,00,000 volumes.

Sugamya Pustakalaya hopes to become a member ABC(Accessible Books Consortium) book service thereby change of integrity a world library-to-library service managed by WIPO(World material possession Organisation) in Geneva.

The steps taken by India is extremely commendable. it's a supply of inspiration for different countries to figure for the betterment of 285 million

folks with visual impairments. It conjointly raises our standing as a mature and accountable nation

History of WIPO and trips provisions for accessibility.

The city pact creates exceptions to material possession law that may permit accessible versions of proprietary books to be made and distributed, each among countries and across international borders. As these reforms go, readers with visual impairments ought to notice it progressively straightforward to shop for or borrow books in accessible formats.

Significance of the pact:

1. The goal of the pact is to assist to finish the book famine baby-faced by people that ar blind, visually impaired or otherwise print disabled.
2. The pact is in correct with our constitutional provision that advocates 'Right to Education' as a elementary right.
3. The pact is inclusive in nature and provides exception to domestic copyright laws and permits for import and export of accessible versions of books and different proprietary works, once more while not copyright holder's permission.

Even with the confirmation of the city pact, the campaign for accessible books isn't over. Braille and audio books should still be made and distributed in multiple languages round the globe.

To achieve that goal, WIPO established the Accessible Book pool (ABC) that works to assist developing countries establish accessible printing facilities and build a world info of accessible titles. Charlson could be a member of the fundamentals Board.

“The shortage of accessible books has been a serious barrier to the education and employment of individuals who are blind, and has obstructed their full integration into society,” aforementioned Kim Charlson, director of the Perkins Library. “Ratification of the city pact is a very important milestone in making a additional accessible world for folks with disabilities.”

With Canada’s action, the city pact becomes binding on the twenty countries that sanctioned the pact, together with India, Mexico, the Republic of Korean Peninsula, Australia and Brazil. The pact formally goes into force on Sept. 30, 2016.

The United States has not yet ratified the Marrakesh Treaty. The Obama administration sent the Marrakesh Treaty to the Senate in February 2016 and urged that body to ratify it. Perkins has information available for individuals who want to advocate for ratification.

The challenges faced by the treaty while establishing abc.

So far, 22 countries have joined the Marrakesh pact, however more are wanted: every new nation that joins brings along not solely a population in need, however a wealth of written matter that can be an add on simply be created accessible in different countries. These are common challenges in several countries and Asian country has been a frontrunner, having in June 2014 become the primary country to sign the Marrakesh pact. And it didn't stop there. India has on time in readying itself to make sure the Marrakesh pact advantages its individuals.

For example, the ‘Accessible India Campaign’ has provided a nationwide flagship campaign for universal access for individuals with disabilities. And India has begun implementation of the Marrakesh pact through a multi-stakeholder approach, which has collaboration among key players like government ministries, native champions just like the DIASY Forum of India,

and also the private sector. This led to the launch in August of India's largest assortment of on-line accessible books known as "Sugamya Pustakalaya", that counts 2,00,000 volumes.

Joining the pact is that the easy part, however. making certain that books become wide offered to those who are blind or print-disabled takes perseverance, patience, and supply effort.

First, the books got to be custom-made into accessible formats either by libraries for the blind, organisations serving the print-disabled, or at the supply by publishers (including Departments of Education) in order that the texts may be "read" using helpful technology on computers, phones or electronic Braille devices. Once created, these accessible books got to be distributed to the people that want them, as well as to populations which will live removed from major urban areas.

ABC , Copyright and analysis and Development within the Developing Countries

According to The World Blind Union ("WBU"), over ninetieth of all revealed materials are inaccessible by blind or low vision individuals. This inadequacy of revealed works in accessible formats has been stated because the "global book famine".

"The lack of books in accessible formats has been a real barrier for education and employment opportunities for the blind and visually impaired in developing and least developed countries," said Mr. Dipendra Manocha, President of the DAISY Forum of India. He noted that "The first rudiment offers a golden promise that through collaboration among key stakeholders we will finish the worldwide book famine."

Through its work on capability building in developing and least developed countries, the first rudiment helps to boost technical data in a way to

manufacture accessible books, significantly for varsity books in national languages. The first rudiment conjointly promotes inclusive publishing, which inspires publishers to deliver digital publications for seeing audiences that square measure equally accessible to the print disabled – a system called “born accessible” – moreover as encouraging the adoption of associate industry-wide accessibility normal.

International Publishers Association President Y.S Chi said “The Accessible Books consortium embodies the spirit and also the collaboration that’s required to realize equal access to any or all readers despite their talents. Successes like these are indicative of wherever WIPO’s strengths lie. Publishers and also the IPA look forward to continuing our accessibility work with WIPO, the ABC, and also the World Blind Union.”

The World Health Organization calculable in 2013 that some 285 million individuals worldwide square measure visually impaired: thirty-nine million are blind and 246 million have low vision. This issue has a crucial development dimension provided that more than ninetieth of persons who are visually impaired square measure resident in developing countries and face reduced instructional opportunities and employment prospects.

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The WBU estimates that in developed regions like North America and Europe, employment of blind individuals is close to 25% whereas in developing areas of the world like Africa, Asia and Latin America, fewer than 10% percent of blind individuals are used

Ongoing dispute between rights and ethics

Making sure that your product are accessible makes good business sense, commercially, wrongfully and ethically (see “Guidelines for Senior Executives”). With the right people, processes and practices in situ you can increase the scale of your market whereas at the same time enhancing your company Social Responsibility profile. The aim of this publication is to provide publishers with clear and summary steering to help them in these endeavours.

Providing “access” to content for individuals with print impairments is a challenge that every publishers will and should be tackling; your efforts will build a discernible distinction to your readers. Our pointers encourage publishers to create their mainstream publications as accessible as attainable in order that full access becomes the norm instead of being “special”. there's no need for accessibility options to be excluding or intrusive – they're going to assist all of your readers. guaranteeing that your publications incorporate accessibility options also will permit all of your readers to customize their own individual reading expertise whereas at identical time respecting copyright holders' rights. Technology that's reconciling to the individual can permit everybody to access content according to their selection whether or not they have a print impairment or not – there's no typical “customer”. Today’s mobile surroundings implies that everybody will have the benefit of a similar selections of access. Having a digital product that reflows to a large type of screen sizes ensures that anyone can browse the content, notwithstanding the device they select or got to use.

These pointers offer background, allow you to explore your choices and assist you to manage several of the problems that you just might encounter as you try to create your product additional accessible. There are consultants within the field for you to figure with and WHO can assist within the production of

accessible content. All of those choices are explained to allow you an entire understanding of all the routes to accessibility obtainable to you. we have a tendency to suggest that you make use of the glossary at the rear that is meant to help you navigate your means through this publication and accessibility problems normally. The additional Resources section offers data and links to different associations and project teams which will be able to provide larger direction.

Main objectives of ABC

One of the most important objectives of the Marrakesh pact was to extend the provision of books in accessible formats and obtain these into the hands of the visually impaired. With the launch of the Accessible Books association (ABC) in June, we are beginning to see the second step: implementation of sensible services and solutions.

ABC is associate degree umbrella organization that assemble the world Blind Union, DAISY association, International Authors' Forum, International Federation of reproduction Rights Organizations, and also the International Publishers Association. The aim of first rudiment is to deal with the problem of accessibility in 3 extremely sensible ways: capability building, inclusive business, and building a world service to facilitate cross-border exchange, referred to as TIGAR (Trusted mediator world Accessible Resources).

Capacity building. in line with the WHO report world data on disability, 90 % of visually impaired individuals live in developing countries. thus a vital objective is to confirm that technical skills are shared and developed to assist build capability for everybody to form, manufacture and distribute accessible format versions of books. capability building activities of first rudiment embrace things like coaching and education moreover as showing organizations a way to use the TIGAR service to get books in accessible formats that are out there internationally.

Inclusive business. inclusive business is another key objective of first rudiment, that aims to alter additional publishers to deliver "born accessible" books that are totally usable by all readers, as well as individuals with print disabilities. There are several strands to the inclusive business activity, and here at Elsevier, we've been concerned in several of those. we have a tendency to supported the creation of the Accessible business Best follow tips and are a signatory to the Charter for Accessible business, giving our commitment to rising our processes and increasing access for the visually impaired.

Facilitating cross-border exchange. first rudiment conjointly hosts the TIGAR book exchange, a information of over 238,000 accessible format books in fifty five languages from libraries from round the world. Participation in TIGAR is free; there's no membership fee or money contribution needed from a collaborating establishment or end-user. TIGAR is meant to be used by establishments that serve the wants of individuals who are blind, visually impaired or otherwise print disabled. It allows secure and clear file exchange among these establishments. Elsevier has given TIGAR permission to use any book we have a tendency to publish.

"Through collaboration ... we will finish the worldwide book famine"

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Indian Scenario

India has been running a step ahead in addressing issues of deep concern to the disabled persons, by amending its Copyright law which is disability-neutral. Under the amendments – Sec.52 (1) (zb)&Sec. 31³ has been proven to be classy exceptions and limitations to benefit the needs of the disabled persons. Sec.52 (1) (zb) –makes provision for any person who would facilitate access to the copyrighted works for the disabled in the accessible format – for private/ personal use, educational/ research purpose.

It also permits organisations to make copies available, if the work is not available in accessible format (charges can be non-profit basis only to

³ **Sec. 31B – (1)** Any person working for the benefit of persons with disability on a profit basis or for business may apply to the Copyright Board, in such form and manner and accompanied by such fee as may be prescribed, for a compulsory licence to publish any work in which copyright subsists for the benefit -of such persons, in a case to which clause (zb) of sub-section (/) of section 52 does not apply and the Copyright Board shall dispose of such application as expeditiously as possible and endeavour shall be made to dispose of such application within a period of two months from the date of receipt of the application.

- (2) The Copyright Board may, on receipt of an application under sub-section (/), inquire, or direct such inquiry as it considers necessary to establish the credentials of the applicant and satisfy itself that the application has been made in good faith.
- (3) If the Copyright Board is satisfied, after giving to the owners of rights in the work a reasonable opportunity of being heard and after holding such inquiry as it may deem necessary, that a compulsory licence needs to be issued to make the work available to the disabled, it may direct the Registrar of Copyrights to grant to the applicant such a licence to publish the work.
- (4) Every compulsory licence issued under this section shall specify the means and format of publication, the period during which the compulsory licence may be exercised and, in the case of issue of copies, the number of copies that may be issued including the rate or royalty:
Provided that where the Copyright Board has issued such a compulsory licence it may, on a further application and after giving reasonable opportunity to the owners of rights, extend the period of such compulsory licence and allow the issue of more copies as it may deem fit.

recover cost of production) but the organisation is under liability to ensure it is used only by persons with disabilities.

Whereas, *Sec.31 B*, is a one-step higher when it comes to addressing the market scenario of the Copyrighted Works as it avails with the provisions of *Compulsory License* to publish any work wherein copyright is enshrined only for the benefits of the disabled persons. Here the person intending to do so have to apply to the *Copyright Board*, only after it is satisfied on the reasonable grounds on issuing the compulsory license it directs the *Registrar of Copyrights* to grant to the licence to publish the work.

This is the present scenario prevailing in India ever since The Copyright (Amendment) Act, 2012 (8th Jun. 2012).

The Marrakesh treaty on visually impaired gives its member nation every flexibility to continue with its national laws even after joining, but, it removes barriers to have access in to the IP protected works for the visually impaired persons. It also promotes for sharing of books in any accessible format for the blind or visually impaired persons. It launches the new ambit of equal opportunity to lead a life – even to the visually disabled persons as enshrined in various International Conventions.

This wide scope of the treaty has helped the developing nations like India, least developed nations and even the developed nation's people who were visually impaired by upholding the International norms alongside its objective. Although there existed the International norms on complying with the obligations there exists even the exceptions that the Contracting Parties have under the *Berne Convention for the Protection of the Literary and Artistic Work*⁴, *The Agreement on Trade-Related Aspects of Intellectual*

⁴ **Article 9(2) of the Berne Convention**, a Contracting Party may permit the reproduction of 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.

*Property*⁵, *WIPO Copyright Treaty*⁶ which are very well respected and preserved within the ambit of the treaty.

India is very much benefited with option of cross-border exchange of the accessible format of copies for the visually impaired, as India was already effective on supporting the cause by amending its national IP laws.

From the view of world blind union⁷

Respect for copyright holders' interests

Article 2 of the Treaty makes it clear that accessible books sent under its provisions should be solely for the use of "beneficiary persons". It asks also that "authorised entities" take "due care" when handling these books, and that they discourage the reproduction and distribution of unauthorised copies. These are reasonable requirements.

Commercial availability of accessible format books

One of our big concerns going into the Treaty negotiation was that the Treaty might require that you could only send or receive books in accessible formats where they were not deemed to already be available commercially in that format. Meeting such an obligation would have been impossible in practice and rendered the Treaty very difficult or impossible to use. This concept survived in the Treaty in a much weaker form, which allows countries to

⁵ **Article 13 of the Agreement on Trade-Related Aspects of Intellectual Property Rights**, a Contracting Party 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.

⁶ **Article 10(1) of the WIPO Copyright Treaty**, a Contracting Party may provide for limitations of or exceptions to the rights granted to authors under the WCT in certain special cases, that do not conflict with a normal exploitation of the work and do not unreasonably prejudice the legitimate interests of the author.

⁷ <http://www.worldblindunion.org/english/news/Pages/The-Treaty-of-Marrakesh.aspx>

choose to have a commerciality requirement in their national copyright law, which some countries like Singapore and Australia already do have. Such countries have to let WIPO know formally that their domestic law requires a commerciality test, and also whether they intend it to affect imports of accessible materials into that country from elsewhere. There is no “commercial availability” requirement for exporters of accessible books.

The “Three Step Test”

This is a concept well-known to international copyright law experts, but few others. It caused a lot of concern among advocates concerned that it might be a Trojan horse for more extensive commercial availability requirements. It appears all over the treaty, but we don’t think it is likely to get in the way of helping blind people except in rare situations.

Conclusion:

In plain language, this is a Treaty that should start to remedy the book famine. It provides a crucial legal framework for adoption of national copyright exceptions in countries that lack them. It creates an international import/export regime for the exchange of accessible books across borders. It is necessary for ending the book famine, but it is not sufficient. Countries need to sign, ratify and implement its provisions. Non-profit organizations, libraries, educational institutions and government need to take advantage of these provisions to actually deliver the accessible books people with disabilities need for education, employment and full social inclusion. The World Blind Union will work with our colleagues and supporters all over the world to implement the Treaty and fully end the book famine for people with print disabilities.

