

ALA American Library Association

PRESS RELEASE

**For Immediate Release:
October 28, 2003**

**Contacts (following page)
Miriam Nisbet
202-628-8410**

New Copyright Rules Fail to Provide Fair Access in the Digital World

In his second triennial rulemaking under the Digital Millennium Copyright Act (DMCA), the Librarian of Congress James Billington has again issued narrow exceptions to the law's prohibition on circumventing technological locks intended to prevent access to copyrighted digital works. Libraries expressed disappointment that the law will continue to disallow legitimate and customary uses of digital materials by libraries and schools.

At the same time, libraries praised the Librarian for recommending two additional exemptions beyond the two that were issued in 2000. One of the new exemptions will allow people with vision or print disability to circumvent technological protection measures in order to access literary works, including eBooks, via a 'screen reader' or text-to-speech or text-to-Braille device. Libraries submitted comments to the U.S. Copyright Office in support of this exemption from the prohibition, as did the American Foundation for the Blind.

In hearings held earlier this year by the U.S. Copyright Office, one of the agencies charged with advising the Librarian of Congress on the rulemaking, the libraries testified that the Librarian should continue to approve exemptions that permit users of digital literary works, including databases and computer programs, to circumvent access control mechanisms when they fail to permit access because of malfunction, damage, or obsolescence. The new rule narrows that exemption to permit circumvention only in connection with computer programs rather than all literary works.

The libraries also requested a renewal of an exemption that would allow access to the lists of websites blocked by filtering software. While libraries are now required to filter access to the Internet under the Children's Internet Protection Act (CIPA), they maintain that they must be able to determine which sites are being blocked so that they can assist adults who still have a right to access a blocked site. Under CIPA, libraries are allowed to disable filters for adult patrons. The Librarian has issued a similar exemption in this round of rulemaking.

Section 1201 of the 1998 Digital Millennium Copyright Act (DMCA) made it illegal to circumvent a technological protection measure employed to restrict access to or distribution of copyrighted material. Libraries, researchers, technologists and other critics of this section of the law have insisted that the anti-circumvention provision stifles fair use of copyrighted

information and chills legitimate research crucial to the advancement of science and technical innovation. Section 1201(a)(1) does allow certain exemptions to this prohibition and directs the Copyright Office in consultation with the Assistant Secretary of Commerce to review the effect of the prohibitions and to recommend any further modifications to the law. The Commerce Department had urged the Copyright Office in August to revise its legal requirements so as not to continue placing an inappropriate and heightened burden of proof on proponents of the exemptions from the anti-circumvention rule.

Libraries stated that they would continue to work closely with Congress on various pending legislative efforts that would amend the DMCA specifically to ensure fair use in the digital environment.

-30-

The Association of Research Libraries (ARL) is a nonprofit organization of 124 research libraries in North America. ARL programs and services promote equitable access to and effective use of recorded knowledge in support of teaching, research, scholarship, and community service.

Contact: Prue Adler (202-296-2296)

The American Association of Law Libraries (AALL) is a nonprofit educational organization with 5,000 members dedicated to providing leadership and advocacy in the field of legal information and information policy. Contact: Robert Oakley (202-662-9161)

The American Library Association (ALA) is a nonprofit educational organization of over 64,000 librarians, library trustees, and other friends of libraries dedicated to improving library services and promoting the public interest in a free and open information society.

Contact: Miriam Nisbet (202-628-8410)

The Medical Library Association (MLA) is a nonprofit, educational organization of more than 1,100 institutions and 3,600 individual members in the health sciences information field, committed to educating health information professionals, supporting health information research, promoting access to the world's health information, and working to ensure that the best health information is available to all. Contact: Mary Langman (312-419-9095 x 27)