

### **ALA testifies on access to copyrighted works for the blind**

Carrie Russell from ALA's Office for Information Technology Policy testified recently at a public meeting called by the U.S. Copyright Office and the U.S. Patent and Trademark Office (USPTO) on the topic of copyright exceptions for the blind or other persons with disabilities. The purpose of the hearing was to inform the U.S. delegation on relevant copyright and access issues to be discussed at the May meeting of the Standing Committee on Copyright and Related Rights (SCCR) of the World Intellectual Property Organization (WIPO).

Russell testified that librarians value Section 121 of Copyright Act (also known as the "Chafee Amendment"), which allows qualified agencies to make reproductions of copyrighted works for the blind or other persons with disabilities. The copyright exception, however, is often in conflict with ADA and other federal and state laws that expand access to a broader user group, not just the visually impaired, but also the reading impaired, which may include users with dyslexia or physical handicaps that prevent them from using a book.

This mismatch leads to confusion since one set of laws may allow user rights that another set of laws do not allow. Russell asked that the U.S. Copyright Office issue a statement in its final report that fair use is not affected by Section 121—in other words, it is a fair use for a librarian to make an accessible copy for a user who is reading impaired. User exceptions under the law do not help in meeting the needs of international users who may be reading impaired and may request accessible copies from U.S. libraries. Primarily because of import and export restrictions, reading impaired individuals in other countries are not well served, and suffer

when their countries do not have a copyright exception for the visually impaired in their copyright laws.

In response to the recent Kindle 2 text-to-speech ordeal, in which Random House and the Authors Guild strong-armed Amazon into disabling the built-in feature, Russell warned that contract law shouldn't be allowed to expand the exclusive rights of copyright holders.

### **ALA supports DMCA 1201 exemption for faculty in all disciplines**

In December 2008, ALA, as a member of the Library Copyright Alliance (LCA), and the Music Library Association (MLA) submitted comments to the U.S. Copyright Office asking that the existing exemption to circumvent technology on DVDs be expanded in order to make compilation clips for use in the face-to-face classroom. LCA argued that:

- the exemption should apply to audiovisual works included in any college or university library, not just the library of the media studies department, and that
- the exemption should apply to classroom uses by instructors in all subjects, not just media studies or film professors.

LCA and MLA followed up in February 2009 by submitting additional evidence supporting the circumvention of access control technologies of audiovisual works included in a library of a college or university. The library associations highlighted the absence of alternatives available and included additional examples of film clips used by college and university faculty from many academic disciplines.

In early May, Jonathan Band, ALA's legal consultant on copyright-related matters, testified (on behalf of the ALA, ACRL, and the Association of Research Libraries) and offered evidence in support of the expansion of the exemption. Band said that DVDs provide

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**The papers of Daniel Talbot, an important** figure in art-house cinema in the United States and founder of New Yorker Films have been acquired by Columbia University Libraries. The collection is comprised of correspondence files that span more than 30 years, more than two decades of producer reports, contract files, files related to New Yorker Films, financial records, guest books dating back to 1960, and production-related ephemera. Talbot founded New Yorker Films (1965–2009) as a means to exhibit foreign film titles for his now defunct New Yorker Theater. He began with the acquisition of Bernardo Bertolucci's *Before the Revolution*, leading the way for New Yorker Films to acquire an illustrious list of more than 400 film titles, including Jean-Luc Godard's *Breathless* and Claude Lanzmann's *Shoah*. New Yorker Films held the rights for theatrical release to theaters and colleges, as well as to distribute films in DVD format. In 1981, Talbot opened his multiplex venue Lincoln Plaza Cinemas at 63rd St. and Broadway creating a major hub on the Upper West Side of Manhattan for first run independent and international cinema. In 2004, Talbot was honored by IFP/New York with the Gotham Award for Industry Lifetime Achievement. Through his exhibition and distribution activities, Talbot provided movie lovers in the United States with access to works by an impressive roster of international filmmakers, including Robert Bresson, Claude Chabrol, Rainer Fassbinder, Federico Fellini, Werner Herzog, Yasujiro

Ozu, Ousmane Sembene, and Wim Wenders among others.

**Library of Congress has acquired the** archives of the American Society of Composers, Authors, and Publisher (ASCAP) Foundation, the not-for-profit arm of the world's largest performing-rights organization, representing more than 275,000 creators. The ASCAP Collection has been established to preserve the history and to create a repository for audiovisual materials, photos, scores, documents, and artifacts relevant to the rich history of the institution of ASCAP and ASCAP members as contributors to American culture. Materials already received include music manuscripts; printed music; lyrics (both published and unpublished); scrapbooks; correspondence and other personal, business, legal, and financial documents; and film, video, and sound recordings. Large, complete archives already received include those of ASCAP founding member Irving Caesar—writer of such memorable songs as “Swanee,” “Tea For Two,” and “Just A Gigolo”—and Harold Adamson, lyricist of “Around the World in 80 Days,” “I Couldn't Sleep a Wink Last Night,” “An Affair to Remember,” and the “I Love Lucy” theme. Materials will continue to arrive indefinitely, and those already received are currently being prepared for researchers. Those interested in using parts of the archive are encouraged to submit their requests to the Music Division through Ask-A-Librarian at [www.loc.gov/rr/askalib/ask-perform.html](http://www.loc.gov/rr/askalib/ask-perform.html). ❧

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the high-quality audio and video necessary to discern subtle forms of communication central to teaching language, criminal justice, and other classes. Motion picture representatives argued that the exemption is not necessary since faculty can use a video camera to tape clips from DVDs playing on a TV monitor as an alternative to circumvention. A demonstration of this can be seen at [vimeo.com/4520463](http://vimeo.com/4520463)

In October, the Copyright Office will announce what exemptions to the anticircumvention rule will be honored over the next three years.

ALA's comments on the Chafee amendment and the Section 121 hearings are available at the US Copyright Office Web site at [www.copyright.gov](http://www.copyright.gov).

Jonathan Band's testimony on behalf of ALA, ACRL, and ARL is available at [www.wo.ala.org/districtdispatch/wp-content/uploads/2009/05/library-dmca-1201-testimony.pdf](http://www.wo.ala.org/districtdispatch/wp-content/uploads/2009/05/library-dmca-1201-testimony.pdf). ❧