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for Print Disabled People?

Cite as: Pescod, Dan, “The 'Right to Read' – Why a WIPO Treaty for Print Disabled People?,” KEStudies Vol 3 (2009)

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By Dan Pescod

In November 2008 at the World Intellectual Property Organization Standing Committee on Copyright and Related Rights, the World Blind Union proposed a treaty for print disabled people. To understand that question, one must bear in mind three hugely important worldwide developments.

One: Globalisation

We all know that civilisation no longer operates exclusively within national borders. Increasing numbers of people across the globe—and not just in the developed world—can buy goods and services internationally, or share ideas with someone in another country as easily as with someone in the same street.

The recent flu pandemic scare demonstrates how “global” we have become. Twenty-four-hour news media report on every detail of the story as it unfolds across the world. We hear the World Health Organisation's ongoing discussion of the crisis, as well as their issuance of the world-wide “alert level.”

And, while we're at it, why does the flu spread across countries so quickly? Because in the last few decades, for the first time in a million years on this earth, humans have been able to travel across it in a matter of hours.

Two: The “Information Revolution”

We know that more than just the physical world has shrunk over the last century. Many commentators say that the last major revolution after the industrial age was the information revolution. We have seen an explosion of information and communication technologies and information provision in the last few years.

What is more, during the industrial revolution, many countries introduced mass education, and began to move towards previously unknown levels of literacy, opportunity, jobs and access to culture. That process has continued ever since.

Why is all this important? Thanks to such unprecedented levels of education and global interaction, the huge benefits of literacy are potentially now available to everyone. People now want to share their knowledge and culture worldwide, particularly among countries with the same languages.

Because we are literate, the technology exists, and the world is (excuse the cliché) a “global village,” we can order a book online, share a magazine article, go into a library to find and read the novel we’ve heard about on TV, or do research for a school project. A book published in one country can be sent to another in a matter of seconds for printing and distribution there. In this brave new world of reading, globalisation, when combined with the information revolution, means that everyone benefits. Or do they?

Sadly, no.

Unnecessary exclusion

Millions of people are missing out on not only this revolution, but on access to even the most basic educational texts—not to mention novels, instruction manuals, and so on.

Among those most excluded from reading are blind and partially sighted people. Our friends at the World Health Organisation (when not concerning themselves with swine flu) recently estimated the number of blind and partially sighted people worldwide at 314 million.

The good news is that the same technological innovation that opens new worlds of information to the sighted majority also provides the means to ensure that no book need now be closed to the blind minority. A digital file can be speedily converted to braille, audio or large print, depending on the requirement of a blind user. Text-to-speech screen readers can read documents to a blind person. There is no longer any technical reason that could bar a blind person from reading a book.

Shockingly, though, some 95 per cent of books are never made available in any of the formats mentioned above, and therefore remain closed to blind and other print disabled people. This is what the World Blind Union refers to as a “book famine.” Imagine going to a bookshop and being told that you

were only allowed to choose from five percent of the books, and then finding out that other customers were free to choose from the whole stock!

Three: Human Rights

The third important development which serves as background to a proposed treaty is the recognition of the concept human rights and the development of human rights treaties. The idea of human rights goes back a long way, but worldwide attempts to spell out these rights began in earnest after World War II with the Universal Declaration of Human Rights. This was the first in a series of international human rights instruments. The latest of these is of particular relevance to the book famine; the UN Convention on the Rights of Persons with Disabilities (CRPD).

I had the great privilege to be involved in the negotiations on the CRPD in New York. It was the first time that NGOs had played such a significant role in the negotiation of any UN treaty. Member States' delegates heard from disabled people themselves of the massive injustices they face. They heard that these problems are not inherently caused by the impairment of a given individual, such as the inability to see. Rather, they are a social problem; society has failed to remove barriers to disabled people even though the means exist to do so. (The most well-known example of this is the failure to provide a ramp for wheelchairs to allow access to a building.) Since these barriers reside within societies, societies can remove them.

There is no one solution to the "book famine" (if only life were that simple!). My organisation, like others, campaigns to improve the rights of disabled people in areas of life too numerous to list here. We are working with publishers, authors, ICT designers and many others to improve access to books. Some of this work can be done at national level, and much of it does not require legislation.

Legal barriers

However, the global information society I've described above has given rise to international legal barriers to reading for print disabled people that can and ought to be removed at WIPO level. Doing so first requires that the Member States' delegates listen as attentively as those at New York did when we were working on the CRPD. Most importantly, we need them to bear in mind that the CRPD itself – to which most of their governments are signatories – says that disabled people should enjoy full and equal access to information (Article 21) and that copyright law must not block access to culture (Article 30).

So what are these legal barriers, and what are we proposing the WIPO treaty should do about them?

Of the five per cent of works that are made accessible to blind and partially sighted people, a large part are converted to braille, large print and audio by specialist not-for-profit organisations. These organisations try to get permission from publishers to do this work, but even where permission is granted, it is often slow in coming or limited in its territorial extension. This means that they rely often on legal copyright exceptions for the conversion of their files.

The resources available to these organisations are very limited. It is therefore vital that voluntary organisations of blind people, who provide the bulk of the accessible format books available today, are able to legally share their books with their partners in other countries. In that way we can radically increase the amount of books accessible to blind people across the world.

In February 2007, WIPO published a detailed report by Judith Sullivan, titled: "Study on Copyright Limitations and Exceptions for the Visually Impaired." This demonstrated that there was a legal patchwork of exceptions for visually impaired people worldwide, and that transferring a book made accessible thanks to a copyright exception in country "A" to country "B" was a legal "grey area."

The need to share resources and the legal grey area of import/export of books necessitate the creation of a harmonized global minimum standard for copyright limitations and exceptions for blind, visually impaired and reading disabled persons. This would allow exports and imports of works in accessible formats to those registered as having a print disability.

In 2008, the World Blind Union convened an expert group to work out the details of a possible treaty that would address these issues. This included participation from WIPO negotiators, leading copyright academic experts, library and public interest groups, and persons representing the broader reading disabilities community, and had diverse geographic representation.¹ In the fall of 2008 the WBU circulated in English, French and Spanish a proposal for such a treaty to WIPO delegates.²

1 A report of a July 24–25, 2008 Experts Meeting on a WIPO Treaty for Blind, Visually Impaired and Other Reading Disabled Persons is available in four different formats:

http://www.keionline.org/misc-docs/tvi/meeting_report.html

http://www.keionline.org/misc-docs/tvi/meeting_report.pdf

http://www.keionline.org/misc-docs/tvi/meeting_report.doc

http://www.keionline.org/misc-docs/tvi/meeting_report.odt

2 The proposed text is available from the DAISY Consortium here <http://bit.ly/fNu0s> or here: http://www.daisy.org/news/news_detail.shtml?

In essence the treaty proposal gives two tiers of limitations and exceptions to the rights of copyright owners. Not-for-profit organisations would have the right to publish and distribute works in accessible formats provided they met the following conditions:

1. The person or organization wishing to undertake any activity under this provision has lawful access to that work or a copy of that work;
2. the work is converted to an accessible format, which may include any means needed to navigate information in the accessible format, but does not introduce changes other than those needed to make the work accessible to a visually impaired person;
3. copies of the work are supplied exclusively to be used by visually impaired persons; and
4. the activity is undertaken on a non-profit basis.

The Treaty proposal contains limited exceptions for commercial publishers to make works available to print disabled people when:
...the work or copy of the work that is to be made into an accessible format is not reasonably available in an identical or largely equivalent format enabling access for the visually impaired, and the entity providing this accessible format gives notice to the owner of copyright of such use and adequate remuneration to copyright owners is available.

Other Reading Disabilities

Recognizing there are other important reading disabilities, the WBU proposal included a provision that extended the benefits of its provisions to “persons with any other disability who, due to that disability, need an accessible format of a type . . . in order to access a copyright work to substantially the same degree as a person without a disability.”³

May 2009 SCCR

When WIPO Member States meet at the end of May 2009 in the Copyright Committee (SCCR) in Geneva, they can agree to work on this treaty proposal. By doing so, they would demonstrate in practice that they support the principles their colleagues signed up to in New York when concluding

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3 Article 15(b) of proposed treaty.

negotiations on the CRPD. Of course the detail will need to be thoroughly examined, and the World Blind Union and our colleagues are ready to help.

The proposed WIPO treaty is an important step towards ending the book famine. It would open new horizons to print disabled people. It would facilitate access to education, culture, information and entertainment for millions of people. And, if governments embrace it, they could show that they are serious about ending the exclusion of millions of print disabled people from the joys and benefits of reading.