



Before the U.S. Copyright Office

Docket No. 2023-3

Reply Comments of the Library Copyright Alliance on the Proposed Rulemaking Concerning Access to Electronic Works

The Library Copyright Alliance (“LCA”) consists of two major U.S. library associations: the American Library Association and the Association of Research Libraries. These associations represent over 100,000 libraries in the United States employing more than 300,000 librarians and other personnel. An estimated 200 million Americans use these libraries over two billion times each year. These libraries spend over \$4 billion annually acquiring books and other copyrighted material.

The comments of the Copyright Alliance, the Association of American Publishers, the Authors Guild, and the Recording Industry Association of America do not correspond to what the proposed rule actually does. The objections they raise concern the security of eDeposits generally and what the Library of Congress hypothetically might want to do in the future with eDeposits. But the proposed rule itself has a very limited scope: it would just expand the categories of eDeposits to which two simultaneous users would have access through computer terminals in the Library’s reading rooms in Washington, D.C., and Culpepper, Virginia. These terminals are not connected to the Internet, have USB and other ports disabled, and are under the supervision of the Library staff. The proposed rule certainly would not “systematically compel thousands of licenses for digital reproductions,” as suggested by AAP.¹

The copyright industry associations fail to indicate how providing on-premises access to a larger set of eDeposits would pose a security risk to the eDeposits or lead to increased infringement. Surely they are not suggesting that a user would disassemble a computer terminal in a Library reading room in order to restore the functionality of the disabled ports so that she could copy the eDeposits. Or that she would use her smart phone to photograph a book displayed on the computer monitor one page at a time. As the rightsholders always remind us, virtually every work can be found for free on a pirate site on the Internet. Given this reality, why would anyone

¹ Comments of the Association of American Publishers, the Authors Guild, and the Recording Industry of America Opposing Proposed Rule at 3.

interested in making infringing copies access the work through a dumb terminal at the Library of Congress?

The copyright industry associations are not entitled to “assurances” relating to the Library’s future actions with eDeposits. To be sure, “the copyright owners are the ones who bear the full burden of providing deposit copies,”² but the public bears the full burden of the vast majority of works remaining in copyright long after they have lost any commercial value. The cost of providing deposit copies to which the public would have highly circumscribed access is a small price to pay in exchange for the enormous benefits copyright registration provides rights holders. Moreover, most authors (perhaps as opposed to publishers) view inclusion of their works in the national collection as a privilege, not a burden, and cherish the immortality that this inclusion provides.

Accordingly, the proposed rule should be adopted now. There is no reason to delay the process in response to the unfounded concerns raised by the copyright industry associations.

Respectfully submitted,

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October 30, 2023

² Comments of the Copyright Alliance at 6.