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WIPO: copyright and the needs of the blind, visually impaired and people with reading disabilities

Introduction and warning

WIPO addressed the copyright issues faced by the blind, visually impaired and people with print-reading disabilities during the May 25-29, 2009 session of its Standing Committee on Copyright Restrictions (SCCR) and again, during a July 13, 2009 reunion.

I attended both meetings on behalf of SIUG (Swiss Internet User Group). This is an attempt at summarizing what went on. Please bear in mind that whatever knowledge I have of copyright and accessibility issues is self-taught. The links section below offers more authoritative information

The issue

WIPO first addressed the copyright implications of catering for the needs of blind – and deaf – people together with UNESCO in the 1982 without much result. Meanwhile, electronic texts (e-texts) and text-to-speech technology (TTS) have offered the hope to answer the needs of people who cannot use printed texts.

However, the use of e-texts with TTS raises copyright issues: TTS does not work with texts that have run-of-the-mill, DRM anticopy "protections".

Hence, in the copyright laws of many countries, Switzerland included, a restriction that allows the removal of these DRM protections to make works accessible for people with disabilities – but also limitations to this restriction forbidding the sharing of these "un-DRMed" works with others.

Hence also, at technical level, the use of other forms of other anticopy protections in these versions for people with disabilities.

Of course, anticopy protections don't work, whether of the traditional DRM type or of the "accessible DRM" type. People who have to use TTS can, may (under the "private copy" clause in many copyright laws) and do make recordings of the TTS output: to use when they are away from the device on which they have downloaded a text and as back-ups. And they can, may (e.g. under the "private copy for the personal circle" clause in many copyright laws) and do share these – DRM-less – recordings with others who cannot access the e-text version, for copyright reasons in particular.

But this is unsatisfactory: on the one hand because it exploits what in many countries (not so much in Switzerland) is a grey area of copyright law; on the other hand, because a digital recording of a TTS output does not offer the same navigation possibilities as a properly formatted e-text. Furthermore, there are serious legal problems with sharing copies which have been made accessible across national borders.

Hence the World Blind Union's proposal of a WIPO treaty for the blind, visually impaired and people with reading disabilities, which was discussed during the May 25-29 2009 session of the SCCR, and which would remove, in particular, national copyright barriers that presently the legal and open diffusion of e-texts in one given language.

Attitudes

Countries

WIPO being a UN institution, during the May SCCR session, countries had the official floor. Simplifying:

- South American countries spoke for the WBU treaty proposal
- African and some other emerging countries would have preferred to see the restriction in favour of people who cannot read print treated together, in a single packet, with other restrictions furthering access to knowledge
- "Group B" countries (i.e. rich countries: EU minus countries formerly of the Soviet bloc, plus Switzerland, US, Canada and the Holy See) were against the WBU treaty proposal, and advocated a national approach to the issue, with the international dimension being treated only case-by-case in a WIPO "stakeholders' platform".

Stakeholders

Stakeholders attitudes to the treaty were expressed both during the WIPO meetings and in discussions in mailing lists. Simplifying again:

- People with disabilities and advocates of their rights who believe in a pragmatic strategy are in favor of the WBU treaty proposal
- Some free-software advocates fear that the treaty will defuse a more general battle for copyright reform and against DRM
- Representatives of the text industry are against the WBU treaty proposal

Nuances

Yet attitudes are not quite as monolithic as that.

During the May SCCR session, the Canadian delegate was genuinely upset when people started to tweet that Canada wanted to sink the WBU Treaty Proposal, leading to a post in the same sense by Cory Doctorow, a Canadian author. This led to the Group B countries' finally accepting that the treaty proposal be discussed again at the next SCCR session, whereas their first position was to have it entirely rejected. If the same tactic had been applied to US or Switzerland instead of Canada, it might well not have been as successful.

At the July meeting, the representative of publishers showed some understanding of the market potential represented by people who cannot read print: when asked about the paradox, market-wise, of the US Authors' Guild's opposition to the TTS feature on the Amazon Kindle, he did give the official argument ("Amazon forgot to negotiate separate audio rights for TTS") in his public answer, but afterwards acknowledged in a private conversation that the AG's attitude did not make sense. And the representative of Sudan, while still advocating a more general approach, supported the WBU treaty proposal. Moreover, during the discussion, the Ambassador and Permanent Representative of Yemen to the UN in Geneva made an ingenious proposal: including people who cannot read print due to lack of education opportunities – illiterate people in the traditional sense – among the people with reading disabilities.

Hopes and to-do's

The complexity of the "TTS reading and copyright barriers" issue might delay a satisfactory solution. However, this issue might be an efficient learning aid towards an understanding of the need to revise the approach to copyright in a digital age, and in particular to the need of scrapping

useless and annoying DRM protections that only incite people who would otherwise have bought an electronic work to go for its free un-DRMed download. In fact, some DRM protections partly prevent users from making screen captures, but no DRM protection can prevent the external recording of a TTS output. And the market argument should be underlined too: people who cannot read print are not asking for charity, but to be able to do what non-print-disabled people can do: borrow books from libraries, but also buy them.

The degree of this awareness presently varies among the "copyright-conservative" adversaries of a copyright restriction for the blind, visually impaired and people with print reading disabilities. This awareness must therefore be promoted, but gently – no matter how abysmally absurd their counter-arguments may be – lest the more tech-ignorant and adamant among them reject any change in a knee-jerk reaction.

As to the free software and the development advocates who are against such a restriction for the opposite motive, i.e. because they are afraid it might distract attention from the need for a more general copyright reform, they must be reassured too that it is not so. And that people who cannot read print will be more receptive to users' freedom arguments once their book famine is satisfied.

Links

A) From KEIonline.org.

WBU Proposal for a Treaty for Blind, Visually Impaired and other Reading Disabled Persons (in Arabic, English, French and Spanish) http://www.keionline.org/index.php?option=com_content&task=view&id=206

Too many other relevant texts to list them all here one by one; so, by groupings:

Texts in the "Reading disabilities" category:

<http://www.keionline.org/blogs/category/a2k/reading-disabilities-a2k/>

Texts tagged WIPO:

<http://www.keionline.org/blogs/tag/wipo/>

Texts tagged WBU

<http://www.keionline.org/blogs/tag/wbu/>

B) Excerpted from Russell McOrmond's very interesting blog post "Is Canada trying to block a WIPO treaty for blind people's access to written material?" <http://www.digital-copyright.ca/node/5037>:

SUMMARY of WIPO SCCR 18, May, 25-29, 2009

The first day of the meeting (May 25) was an information meeting on developments in broadcasting.

For the presentations go to:

http://www.wipo.int/meetings/en/details.jsp?meeting_id=17762

http://www.wipo.int/meetings/fr/details.jsp?meeting_id=17762

The substantive SCCR meeting started on May 26.

The documents related to that meeting may be found at:

http://www.wipo.int/meetings/en/details.jsp?meeting_id=17458

http://www.wipo.int/meetings/fr/details.jsp?meeting_id=17458

Of particular importance are the Conclusions:

http://www.wipo.int/meetings/en/doc_details.jsp?doc_id=123192

(Currently available only in English but check website for future translation)

the draft treaty on the visually impaired submitted by Brazil, Ecuador and Paraguay:

http://www.wipo.int/meetings/fr/doc_details.jsp?doc_id=122732

[Provisional French translation]

http://www.wipo.int/meetings/fr/doc_details.jsp?doc_id=122812

and the Interim Report of the Stakeholders' Platform:

http://www.wipo.int/meetings/en/doc_details.jsp?doc_id=122314

http://www.wipo.int/meetings/fr/doc_details.jsp?doc_id=122314

Also of relevance is the WIPO press release "SCCR to Expedite Work in Favour of the Reading Impaired" summarizing the meeting

http://www.wipo.int/pressroom/en/articles/2009/article_0012.html

http://www.wipo.int/pressroom/fr/articles/2009/article_0012.html

"Meeting the Needs of the Visually Impaired Persons: What Challenges for IP?" (July 13)

http://www.wipo.int/meetings/en/2009/vip_ge/program.html

MP3 recording: http://www.wipo.int/multimedia-video/mp3/vip_ge/vip_session.mp3

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