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Submission to the United States Copyright Office and the United States Patent and Trademark Office on the Topic of Facilitating Access to Copyrighted Works for the Blind or Persons with Other Disabilities

In the comment period for the posting of the United States Copyright Office and the United States Patent and Trademark Office in Response to the Notice of Inquiry and Request for Comment on the Topic of Facilitating Access to Copyrighted Works for the Blind or Persons with Other Disabilities, published in the *Federal Register* on March 26, 2009 (Volume 74, Number 57, pages 13268-70), several respondents referenced the programs of the National Library Service for the Blind and Physically Handicapped at the Library of Congress. We file these reply comments in order to amplify that information and to provide more detail about the Library's embrace and employment of new technologies in meeting the needs of our blind patrons.

The Library of Congress, through its National Library Service for the Blind and Physically Handicapped (NLS), has been providing reading resources for blind readers since legislation was enacted in 1931 that directed the Library to offer free library service to blind and physically handicapped citizens who reside in the United States or live abroad.

Today, NLS provides reader access to nearly 198,000 audiobooks in 55 languages, produced at the rate of approximately 2 million copies annually. The nearly 800,000 readers who meet the requirements for NLS services have access to these materials through a network of participating libraries in all 50 states, the District of Columbia, and the territories. The NLS ships playback machines and copies of the audiobooks to the network libraries, and the participating libraries provide reference and reader services to the local blind and physically handicapped patrons.

The purpose of this statement is to describe the program the Library has recently launched to ensure that qualified readers for this service enjoy the benefits of new technology. NLS has changed technology several times in its history to create library services for the blind and physically handicapped citizens that are comparable to public library services for other readers.

Four concepts have guided each of the transitions: (1) Services will be free to qualified users; (2) Patrons will be fully involved in the development of the new system; (3) Access to NLS materials is restricted to eligible, duly registered blind, visually impaired, or physically handicapped users to protect copyrights; and (4) The new system will better meet users' reading needs. These concepts have been especially important in establishing the new Digital Talking Book Program that was launched in 2008.

Audio cassettes, in use now for nearly two decades for providing talking books to the NLS users, are falling into obsolescence. The NLS carried out extensive evaluations of possible new media for distributing talking books and determined that the new digital system for talking books would be based on flash memory technology, specifically Universal Serial Bus (USB) flash drive technology, because of its numerous advantages over analog cassettes:

- easy to use
- improved audio reproduction quality
- greater storage densities and capacities
- longer life and the possibility of reuse
- playback machines can be made smaller and lighter

NLS worked with the Battelle Memorial Institute, a leading technology innovation firm, and a team of library experts to develop the digital talking books and audio playback machines. Subcontractors on the project included HumanWare, formerly VisuAide, a leader in digital talking book technology; the National Federation of the Blind, the largest organization of blind individuals in the United States with more than 50,000 members; and Trace Research and Development Center at the University of Wisconsin-Madison, which makes information technology and telecommunications systems accessible by people with disabilities.

The design of the digital machine and cartridge was approved in late 2007. After an exhaustive competitive process to identify contractors to manufacture machines and cartridges, NLS awarded contracts in mid-2008 to Shinano-Kenshi/Plexor Ltd. for machine production, and to Northstar Systems Inc. for cartridge production. Producers for all physical components of the new digital talking book system were in place, and production began in early 2009.

All along the way, user needs have been a principal consideration. Detailed surveys of current users helped determine the requirements for the new system. Users told NLS that they wanted large-print and Braille labeling on books and magazines, as well as raised symbols on playback machine keys. They wanted playback machines that are smaller and lighter, that have better audio reproduction quality, and enable readers to find their place again after an interruption in reading.

The Library of Congress has faithfully developed a digital rights management scheme for the new digital talking books program that was developed to provide copyright protection of program materials. NLS used the National Institute of Standards and Technology's Advanced Encryption Standard as the basis for the digital rights

management scheme, which calls for a decryption key to be built into NLS digital talking book machines and to facilitate the reading of non-NLS materials by enabling decryption keys for non-NLS flash drive-based books loaded onto NLS's playback machines.

The Library of Congress recognizes that the technological sophistication of all audiences, including the blind and physically handicapped, varies widely. In addition to developing digital talking book playback machines and cartridges, the Library has also launched a new program, BARD (Braille and Audio Reading Download), that allows readers to download digital talking books and magazines from the NLS Web site to their own computers. These downloaded materials can then be transferred, if they wish, to flash cartridges that can be used with NLS playback machines or with commercially available machines. Readers must be registered NLS users living in the United States. The materials available for downloading are password protected. Network libraries are beginning to work with NLS to make some of their local resources available through the download capability, as well, following the same procedures.

The Library of Congress is proud of its record in meeting the reading needs of the blind and physically handicapped citizens of the United States for nearly 80 years in a way that honors copyright law and provides access to eligible users of the service.

Again, we appreciate this opportunity to elaborate on the work of the National Library Service of the Blind and Physically Handicapped of the Library of Congress.

Respectfully submitted,

A handwritten signature in black ink that reads "Deanna Marcum". The signature is written in a cursive, flowing style.

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