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**MEMORANDUM**

To: U.S. Copyright Office

From: Scott C. LaBarre

Date: November 13, 2009

Re: Comments of National Federation of the Blind in Response to Federal Register Notice, October 13, 2009

Greetings:

I am Scott LaBarre and I serve as legal counsel for the National Federation of the Blind (NFB). I appeared for the Federation at the May 18, 2009 Public Hearing. As counsel for the NFB, I am offering these brief comments on behalf of the organization regarding the draft treaty proposed by Brazil, Ecuador, and Paraguay.

I incorporate by reference our previous comments submitted by Dr. Marc Maurer on April 21, 2009. Additionally, we wholly endorse the comments submitted by Knowledge Ecology International filed, I believe, yesterday, November 12, 2009.

- First, the draft treaty or other codification of norms would provide a sound foundation for implementation of a pro-access approach in existing U.S. copyright law. Earlier in our April 21<sup>st</sup> comments, we detailed some of the issues of interpretation that arise with respect to Sections 107 and 121 of the Copyright Act. If widely recognized international norms favored the principle of accessibility without discrimination, print-disabled people in the United States would be among the most direct beneficiaries. Organizations serving the blind and people with print disabilities would be encouraged to adopt progressive interpretations of existing law, and were such interpretations challenged in court, judges would have an important new source of information on which to draw in arriving at their decisions.
- Second, international norms that recognized the importance of cross-border movement of accessible texts would yield great benefits for people with print disabilities worldwide. It is a fact of the present legal environment that whatever exceptions in favor of the print disabled are provided under national law operate only within the territories of the countries in question. U.S.-based communities

would benefit if--following an international lead--our domestic laws were revised to permit importation of accessible texts. People with print disabilities in other countries, where accessibility services are less developed than in the U.S., would benefit even more. On behalf of the blind of the United States, We recommend positive consideration of the proposal to permit transmission of copyrighted material for the use of the blind across country borders.

- Third, and finally, new international norms might help the print disabled to cut the Gordian knot of digital rights management and anti-circumvention legislation, at least where the print disabled are concerned. A strong statement by the countries of the world that technological locks should not be allowed to interfere unnecessarily with text accessibility would be an important message to legislatures and courts everywhere. By the same token, if any set of norms on limitations and exceptions for text accessibility were to omit such a statement, the message would be an unfortunate one. Electronic texts have the potential to help usher in a new age of opportunity for people with print disabilities. It would be both ironic and unfortunate if digital protectionism were to be allowed to interfere with the realization of technology's own promise.

We look forward to working with the Copyright Office, the Patent and Trademark Office, and the United States delegation to the World Intellectual Property Office to assure that the blind a print disabled of our nation, and the world, have the greatest access to copyrighted works as possible. Technology holds great promise, but it is our obligation to see that the promise is realized.



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