

March 30, 2000

David O. Carson
General Counsel
Copyright Office
Library of Congress
James Madison Memorial Building
101 Independence Avenue, SE
Washington, D.C.
sent via email: 1201@loc.gov

Re: Reply Comment regarding Section 1201(a)

Mr. Carson:

The Art Libraries Society of North America (ARLIS/NA) expresses its agreement with the comments previously submitted by Miriam M. Nisbet on behalf of other Library Associations (no. 162), in response to the notice of inquiry “Exemption to Prohibition on Circumvention of Copyright Protection Systems for Access Control Technologies” (docket no. RM 99-7).

The Library Associations’ comment gives a full description of the dangers posed by the anti-circumvention clause added to the Copyright Act by the Digital Millennium Copyright Act in 1998. We particularly want to emphasize the importance of maintaining the traditional rights, defenses and limitations built into the Copyright Act, which have long served to establish the appropriate balance between the rights of copyright owners and the users. This delicate balance would be seriously undermined by the anti-circumvention clause in Section 1201(a). This was clearly not the intention of Congress, as expressed in H. Rep. 105-551, Part 11, accompanying H.R. 2281, Digital Millennium Copyright Act of 1998 (105th Congress, 2nd session) at 41. Together with the other Library Associations, and other groups representing the interests of intellectual property users, we believe that Section 1201(a) would irrevocably impede access to protected classes of material (such as public domain material) and other noninfringing uses of copyrighted material.

We therefore urge the Librarian of Congress, in his rulemaking on the exemption of certain classes of works from the prohibition against circumventing technological protection measures, to determine that all possible classes of material must remain exempt from this prohibition.

We are grateful for this opportunity to present our position on this issue.

Karen McKenzie
President, ARLIS/NA

c/o Art Gallery of Ontario
317 Dundas Street West
Toronto, ON M5T 1G4
Canada
Phone (416) 979-6660 Ext. 389
Fax (416) 979-6602
E-Mail <Karen_McKenzie@ago.net>