

PRINCIPLES ON LIBRARY OWNERSHIP OF DIGITAL BOOKS

INTRODUCTION

These Principles on Library Ownership of Digital Books, including e-books and e-audiobooks, were developed in order to establish a foundation of trust between publishers and libraries, so that publishers may sell, rather than merely license, permanent copies of digital books to libraries, and libraries are empowered to build and maintain permanent digital collections.

Publishers and authors need to know that libraries and their platform partners will safeguard in-copyright works, and libraries need a clear understanding of those safeguards and how to implement them. To that end, these Principles articulate an understanding of how U.S. Copyright Law applies to permanent library ownership of digital books.

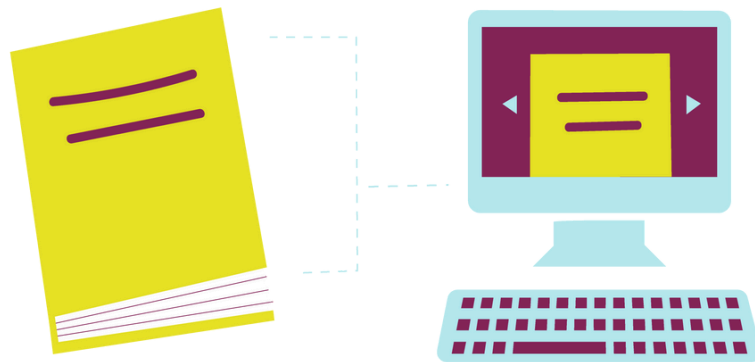


SUMMARY OF THE PRINCIPLES

Libraries (and trusted third-parties acting on their behalf) can...	So long as they...
Purchase digital books and maintain possession of the digital books or have the digital books hosted by a third party of their choice as part of their permanent collections.	Employ reasonable industry-standard security measures to prevent unauthorized access to the digital books.
Maintain digital books in a manner that allows them to be accessed, including by updating file formats, as necessary, to ensure compatibility with contemporary equipment and best practices for service.	Maintain the unaltered, unchanged substance of the underlying copyrighted work and employ reasonable industry-standard digital preservation techniques for ensuring digital books do not decay, or become corrupted or inaccessible.
Lend digital books, including to patrons of another library via interlibrary loan.	Employ reasonable industry standard technology to maintain one-reader-per-copy lending and restrict patrons' ability to keep, copy, or redistribute the digital books.
Transfer digital books within their own systems (e.g., when migrating them from one server to another), to other libraries, or to third-party hosting providers to store on their behalf.	Employ reasonable industry-standard security measures when transferring the digital books, and in the case of deaccessioning, ensuring permanent deletion.
Maintain reader privacy.	Follow applicable law and their own policies with respect to the collection and sharing of patron data.

LEGAL BACKGROUND

The core of these Principles is the common understanding that, as with physical books, the sale of a digital book transfers title in the particular copy, but it does not transfer copyright in the underlying work. The rightsholder retains all rights under applicable copyright law, e.g., Section 106 of the US Copyright Act, including all associated rights to license, reproduce, and sell their work as well as all subsidiary and derivative rights, e.g., the creation of new editions, audiobooks, translations, and adaptations. Similarly, libraries and their patrons retain all rights under applicable exceptions and limitations, e.g., Sections 107-121 of the US Copyright Act, including, but not limited to the right to make fair uses, even if not explicitly articulated here. Nothing in this document is intended to limit any rights under the law, or to interfere with future developments of law or technology.



THE ROLE OF LICENSES

Providing licensed access to digital books via commercial platforms can be an effective and efficient way for libraries to meet certain patron needs, for example, to fulfill temporary high demand for popular books. Licensed access, however, generally comes with conditions that restrict libraries from performing critical traditional functions, such as long-term preservation and resource sharing. Full ownership of digital books allows libraries to develop their own permanent collections that may be more diverse and/or less commercially oriented than licensed offerings.

THE PRINCIPLES

Libraries must be able to purchase and own digital books.

Context: In the print ecosystem, libraries have purchased or otherwise acquired books and other materials for their permanent collections. Library rights in the digital books licensed to them by publishers should, but currently do not, mirror their print counterparts.

Scope: Ownership of digital books allows libraries to maintain long-term possession of digital books as part of their permanent collections, regardless of maintaining an ongoing relationship with the publisher or distributor; responsibility for maintaining preservation and access rests solely with libraries, not publishers.

Responsibilities: Libraries must employ reasonable industry-standard security measures to prevent unauthorized access to their digital collections.

Libraries must preserve digital books.

Context: Long term preservation is core to the mission of libraries. Licensing often falls short of preservation needs because terms may grant libraries no rights in preservation, restrict preservation to only outdated technologies or formats, and/or reserve to the publisher or vendor the right to alter the work or the license with or without notice. Further, the digital copy hosted solely by the publisher, or a commercial vendor acting on their behalf, frustrates access and preservation because it is vulnerable to becoming inaccessible at any time (even if only temporarily) for technological or business reasons.

Scope: Preservation means libraries must store and maintain digital books in a manner that allows them to be accessed by patrons, including by updating file formats and equipment as necessary. Libraries may make a reasonable number of incidental copies as necessary to perform preservation functions.

Responsibilities: Libraries must not alter the substance of the underlying copyrighted works, and must employ reasonable industry-standard digital preservation techniques to prevent digital books from decay, corruption or inaccessibility.

Libraries must provide access to digital books.

Context: Resource sharing is an essential feature of the library system. Libraries have come together to build shared collections as part of consortia, and have developed other mechanisms such as interlibrary loan to expand access to a broad range of materials for all communities.

Scope: Cooperation allows the library to transfer the digital book file within their systems, including systems operated on their behalf (e.g., by consortia or third-party hosting providers). Libraries may also lend to the patrons of another library through interlibrary loan. The library may make a reasonable number of incidental copies as a necessary part of these collaborative processes.

Responsibilities: Libraries must employ reasonable industry-standard technical measures to transfer digital books securely, and, in the case of deaccessioning, to ensure permanent deletion.

Libraries must protect reader privacy.

Context: Protecting reader privacy and confidentiality is an integral part of the mission of libraries. Transferring reader data to third-party corporate vendors, as is commonly required in licensed models, is not in alignment with this core value.

Scope: Preserving patron privacy means that libraries may not transfer patron data to publishers, other rightsholders, lending platform vendors, or other unspecified third parties.

Responsibilities: Libraries must follow applicable law and their own policies with respect to the collection and sharing of patron data.



DEFINITIONS

Digital Book: an e-book or e-audiobook that a publisher makes available for Sale.

E-book: A literary work, including, without limitation, a novel, book, short story, article, chapter, or excerpt, that is (a) provided in digital form, (b) designed for consumption on a personal computer or hand-held device, and (c) identified by its associated metadata.

E-audiobook: An audio recording of an e-book.

Own or Ownership: This term is intended to have exactly the same meaning for digital books as it does for physical, print books. Just as ownership of a physical book is regulated by copyright law (e.g., a book owner may sell or lend a copy of the book she owns, but may not make additional copies to sell or lend), ownership of a digital book also comes with a baseline set of rights and responsibilities. These Principles seek to expressly articulate them.

Particular Copy: This term has the same meaning as it would under the first sale doctrine, codified at 17 U.S.C. § 109, notwithstanding the fact that certain incidental copies may be made in the process of effectuating libraries' rights and obligations under these Principles.

Sale or Sell: With respect to a Particular Copy of a Digital Book, the transfer of rights in the Particular Copy that are substantially equivalent to the rights libraries would have in a physical print copy (e.g., a paperback or hardcover book) of the applicable literary work purchased by such Permitted Library under the first sale doctrine, codified at 17 U.S.C. § 109. A Sale is made notwithstanding the fact that certain incidental copies may be made in the process of effectuating libraries' rights and obligations under these Principles. "Purchase" is the other side of the same transaction.

*These principles were drafted in consultation with Lila Bailey (Internet Archive), Charlie Barlow (Boston Library Consortium), Maria Bustillos (journalist and founding editor of Brick House Cooperative), Becky Chambers (UC Berkeley Project LEND), Greg Cram (New York Public Library), Jennie Rose Halperin (Library Futures), Dave Hansen (Authors Alliance), Nate Hill (METRO), Micah May (DPLA), Michael Weinberg (NYU Engelberg Center), Michelle Wu (former dean of Georgetown Law Library) and Juliya Ziskina (Ebooks Study Group).**

**Affiliations are for identification purposes only.*