

2012-2013 ALA CD#20.1
2013 ALA Midwinter

RESOLUTION SUPPORTING THE APPLICATION OF THE FIRST SALE DOCTRINE OF THE COPYRIGHT LAW TO ALL MATERIALS IN LIBRARY COLLECTIONS

WHEREAS, Article I, Section 8, Clause 8 of the U.S. Constitution, known as the Copyright Clause, empowers the U.S. Congress “To promote the Progress of Science and the useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries;” and

WHEREAS, U.S. copyright law relies on a balance between the right of copyright holders to control the initial public distribution of copies of their works and the subsequent right of the public to dispose of their lawfully acquired copies of those works; and

WHEREAS, Public, academic, school, and special libraries, by promoting the advancement and sharing of knowledge, innovation, and creativity, fulfill the Constitutional purpose of copyright law; and

WHEREAS, The ALA Code of Ethics states, “We respect intellectual property rights and advocate balance between the interests of information users and rights holders;” and

WHEREAS, 17 U.S.C. Section 109, known as the “First Sale Doctrine” in U.S. copyright law, states that “the owner of a particular copy or phonorecord lawfully made under this title...is entitled, without the authority of the copyright owner, to sell or otherwise dispose of the possession of that copy;” and

WHEREAS, For almost four hundred years, libraries in America have promoted democratic values and an informed public by lending books and other materials published throughout the world, and currently loan over 4.42 billion items annually in reliance on the First Sale Doctrine; and

WHEREAS, The Supreme Court is currently considering the case of *Kirtsaeng v. Wiley*, the subject of which is the First Sale Doctrine; and

WHEREAS, A decision to restrict the application of the First Sale Doctrine to copies manufactured in the United States could threaten the ability of libraries to fulfill their vital role to the American people by limiting their right to lend the more than 200 million items already in their collections, including most children’s picture books, and to acquire foreign materials at an affordable cost; and now, therefore, be it

RESOLVED, That the American Library Association (ALA) on behalf of its members:

1. Reaffirms the essential role of the First Sale Doctrine in ensuring that the education, research, and library communities continue to support the Constitutional purpose of

copyright law by promoting the advancement and sharing of knowledge, innovation, and creativity, wherever made; and

2. Urges the United States Congress to pass legislation to remedy any judicial decision that limits libraries ability to lend copies of foreign-made works under the First Sale Doctrine.

Adopted by the Council of the American Library Association
Tuesday, January 29, 2013 in Seattle, Washington

A handwritten signature in black ink, appearing to read 'Keith Michael Fiels', written in a cursive style.

Keith Michael Fiels

ALA Executive Director and Secretary of the ALA Council