taining the nonpublic character of its forums, and may regulate in ways that would be impermissible were it to designate a limited public forum.[1445]

Application of the doctrine continues to create difficulty. A majority of Justices could not agree on the public forum status of a sidewalk located entirely on Postal Service property.[1446] The Court was also divided over whether nonsecured areas of an airport terminal, including shops and restaurants, constituted a public forum. Holding that the terminal was not a public forum, the Court upheld restrictions on the solicitation and receipt of funds.[1447] But the Court also invalidated a ban on the sale or distribution of literature to passers-by within the same terminal, four Justices believing that the terminal constituted a public forum, and Justice O'Connor[1448] contending that the multipurpose nature of the forum (shopping mall as well as airport) made restrictions on expression less "reasonable."[1449]

In *United States v. American Library Association, Inc.*, a four-Justice plurality of the Supreme Court found that "Internet access in public libraries is neither a 'traditional' nor a 'designated' public forum."[1450] The plurality therefore did not apply "strict scrutiny" in upholding the Children's Internet Protection Act, which, as the plurality summarized it, provides that a public school or "library may not receive federal assistance to provide Internet access unless it installs software to block images that constitute obscenity or child pornography, and to prevent minors from obtaining access to material that is harmful to them."[1451] The plurality found that Internet access in public libraries is not a "traditional" public forum because "[w]e have 'rejected the view that traditional public forum status extends beyond its historical confines.'"[1452] And Internet access at public libraries is not a "designated" public forum because "[a] public library does not acquire Internet terminals in order to

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[1445] Justice Kennedy criticized this approach in ISKCON v. Lee, 505 U.S. 672, 695 (1992) (concurring), contending that recognition of government's authority to designate the forum status of property ignores the nature of the First Amendment as "a limitation on government, not a grant of power." Justice Brennan voiced similar misgivings in his dissent in United States v. Kokinda: "public forum categories—originally conceived of as a way of *preserving* First Amendment rights—have been used . . . as a means of upholding restrictions on speech." 497 U.S. at 741 (emphasis in original) (citation omitted).

[1446] United States v. Kokinda, 497 U.S. 720 (1990) (upholding a ban on solicitation on the sidewalk).

[1447] ISKCON v. Lee, 505 U.S. 672 (1992).

[1448] 505 U.S. at 690.

[1449] Lee v. ISKCON, 505 U.S. 830 (1992) (per curiam).

[1450] 539 U.S. 194, 205 (2003).

[1451] 539 U.S. at 199.

[1452] 539 U.S. at 206.