October 28, 2015

via electronic mail: skoo@who.eop.gov

President Barack H. Obama
The White House
1600 Pennsylvania Avenue, NW
Washington, DC  20500

Attn.: Stacy J. Koo
Special Assistant to the President and Chief of Staff for Presidential Personnel

Dear President Obama:

Librarian of Congress Dr. James H. Billington is retiring effective December 31, 2015. He has overseen the Library during a time of transformation in the ways that works of authorship are created, distributed, accessed, and preserved. The Section of Intellectual Property Law of the American Bar Association (“the Section”) has a great interest in ensuring that, among his or her other credentials, the next Librarian is qualified to oversee the U.S. Copyright Office, which is currently within the Library of Congress, and the operations of which are central to the development and implementation of U.S. copyright policy. I therefore write to express the Section’s views on essential qualifications for the next Librarian with regard to copyright law. These views have not been submitted to the American Bar Association’s House of Delegates or Board of Governors, and should not be considered as views of the Association.

The Section has a dual interest in ensuring that the next Librarian has the necessary qualifications for the position. As copyright practitioners, its members have frequent dealings with the Copyright Office and a significant interest in copyright law and policy. At the same time, as representatives of creators and distributors of creative content—the very material to which the Library of Congress is considering proposals to improve the effectiveness and efficiency of the U.S. Copyright Office. One such proposal would establish the Office as an independent agency with its head appointed by the President with the advice and consent of the Senate. The Section favors this approach. The recommendations contained in this letter are applicable so long as the Office remains within the Library of Congress.

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2 The Section does not take a position as to any other qualifications of the Librarian.
Congress is charged with preserving and providing access—they also have an interest in the core functions of the Library of Congress as our national library. Because of both of these considerations, the Section believes that the next Librarian should have a working knowledge of copyright law, including an appreciation of the need for an effective and accessible copyright registration process. He or she also should have respect for copyright protection as a force for facilitating and encouraging creativity in a democratic society. Similarly, as the Library expands online access to its collections, the next Librarian should ensure that our creators and the industries that support them continue to thrive. If the Library as an institution fails to maintain its leadership in the advancement of copyright law, our nation’s rich cultural heritage will suffer. It therefore is crucial that the next Librarian of Congress fully comprehend the importance of achieving the right balance between access to copyrighted works and copyright protection in the digital age.

We respectfully urge you to include these copyright considerations among the many factors you will weigh in selecting the next leader of this iconic American institution.

Sincerely,

Theodore H. Davis, Jr.
Chair, Section of Intellectual Property Law
American Bar Association