

AMERICAN BAR ASSOCIATION

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November 29, 2010

The Honorable James H. Billington
Librarian
The Library of Congress
101 Independence Ave, SE
Washington, DC 20540

Dear Dr. Billington:

I am writing to express the views of the Section of Intellectual Property Law of the American Bar Association (“the Section”) regarding the qualifications that should be required of any person selected to be Register of Copyrights. 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.

Ms. Marybeth Peters is retiring effective December 31, 2010, after more than 16 years as the Register of Copyrights. The Section applauds Ms. Peters for her long, faithful, and effective service as she shepherded the Copyright Office through the last 16 years, capping a career of more than 40 years in the Office.

We understand that a search for her replacement has begun. The American Bar Association as a matter of policy does not recommend specific individuals for appointment to high government offices such as this. Without endorsing any candidate, we are writing to let you of the qualifications that the Section believes should be required of any candidate for appointment as Register.

We believe that first and foremost, the Register must have both substantial expertise and experience in copyright law, qualifications that are essential to carrying out the responsibilities of the Office. The Register is responsible for assisting in the development of copyright policy within the United States, through Copyright Office studies, testimony before Congress, guidance and advice to the Justice Department on litigation concerning copyright issues, and in many other ways. The Register is also responsible for ensuring that the laws in Title 17 of the United States Code concerning copyright registration, deposit and recordation of transfers, and formal notices of various kinds, are properly implemented through regulations and Copyright Office practices.

The Copyright Office has long been respected for its deep institutional knowledge of copyright law and copyright history, and any individual selected to be Register must possess that knowledge and command such respect. Moreover, copyright law must adapt to the challenges of new technologies, and leadership in these challenging times requires a Register with a solid understanding of why the law developed as it did and how numerous and varied copyright interests may be affected by any proposal for change. For all of these reasons, the Office should be led by someone familiar with the copyright law both in theory and in

practice, and familiar also with the history and development of the copyright law. Because copyright law is increasingly international, it is also critical that the Register be knowledgeable not only about national law, but also about international law.

The Register of Copyrights is responsible not just for developing copyright policy, but also for managing a large office of approximately 500 people. It is critical that the Register of Copyrights have the appropriate management skills to run such an office. While some aspects of office management can and should be delegated, certain operational decisions can be made only by someone with an intimate knowledge of the copyright law, because the Copyright Office's operations are inextricably intertwined with the underlying law and regulations.

We urge you to insist upon these high qualifications in your selection of the next Register of Copyrights, and we look forward to a close and cooperative relationship with you and the Register as you carry out the copyright laws, policies, and programs of the United States.

Very truly yours,

A handwritten signature in black ink, appearing to read "Marylee Jenkins", with a long horizontal line extending to the right.

Marylee Jenkins
Chairperson
ABA Section of Intellectual Property