



**The Register of Copyrights of the United States of America**

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May 2, 2012

The Honorable Phil Gingrey  
The Honorable Zoe Lofgren  
U.S. House of Representatives  
1309 Longworth House Office Building  
Washington, D.C. 20515

*Re:* Hearing of the Subcommittee on Oversight,  
Committee on House Administration

Dear Chairman Gingrey and Ranking Member Lofgren:

This letter is in response to the questions raised by Ranking Member Lofgren during the course of the Subcommittee's hearing on April 18, 2012, entitled "Library of Congress: Ensuring Continuity and Efficiency During Leadership Transitions."

At the request of the Committee's minority staff, we are responding to these oral questions earlier than, and separately from, the written questions that followed the hearing, for which you requested a response by May 9, 2012. We do note, however, that although the oral and written questions overlap to some degree, their wording is not identical. Therefore, to avoid any confusion, we are providing comprehensive answers in our response today.

During the hearing, Representative Lofgren asked questions about travel information that I had submitted upon request in advance of the hearing. Representative Lofgren highlighted trips that I had taken to Los Angeles and New York in November and December 2011, and asked me to identify the topics and names of attendees from certain stakeholder meetings. She also asked whether I had discussed the Stop Online Piracy Act (SOPA) with these stakeholders. We have fully addressed these questions below, and in an effort to be as responsive as possible, have also listed the meetings we held in Washington, D.C. and discussions we had by phone during this time period in which SOPA was a topic of discussion.

As the Register of Copyrights, I interact with copyright stakeholders on a routine basis. This is an important part of my job and part of the responsibilities vested in the staff of the Copyright Office under Title 17 of the U.S. Code. Congress has by statute charged the Office with certain legal and policy functions, including administering the national copyright registration system, conducting copyright studies and public programs, and advising Congress on matters of national and international copyright policy. The Office carries out this work in many ways. We organize public roundtables, request

public comments, and meet with a wide variety of stakeholders such as authors, publishers, producers, libraries, consumer groups, and technology companies on a routine basis. For example, we are currently preparing a study on small claims mechanisms and we are engaged in outreach regarding measures that might improve the public availability of copyright ownership records. In all, the Office is focused on twenty-seven work priorities at this time (from upgrades in copyright registration to legislative policy). In the interest of transparency, the Office publicly announced these work priorities on October 25, 2011 in *Priorities and Special Projects of the United States Copyright Office*, a document available at <http://www.copyright.gov/docs/priorities.pdf>.

When Congress specifies a particular copyright priority, as it has done with the subject of online piracy and enforcement measures, that subject naturally becomes a major focus for the U.S. Copyright Office as well. Indeed, these issues have been the subject of discussion within the U.S. Senate and the U.S. House of Representatives and among the public for more than a year. My colleagues and I therefore questioned interested stakeholders on these issues throughout 2011, making a point to meet with many groups and companies with diverse and often opposing views. This information informed my congressional testimony on three occasions last year, and helped us to serve the Congressional offices that called upon us throughout the legislative process, asking for impartial technical assistance on related questions, both general and specific. I previously submitted for the record (following Representative Lofgren's request at the March 14, 2011 Hearing of the Subcommittee on Intellectual Property, Competition, and the Internet, House Judiciary Committee) a list of the more than fifty stakeholder meetings that the Office held earlier in 2011, prior to the introduction of legislation in either the House or the Senate.

Once the SOPA bill was introduced (October 26, 2011) my Office had some follow-up discussions with stakeholders, focusing specifically on the language and operation of both SOPA and the Senate's pending bill, PIPA (the Preventing Real Online Threats to Economic Creativity and Theft of Intellectual Property Act). These discussions took place in November 2011 and were as follows:

Date: November 4, 2011

Meeting with NetCoalition and Google:

Jonathan Band, Erik Stallman, and (by phone) Fred von Lohmann

Date: November 8, 2011

Meeting with Public Knowledge and the Center for Democracy and Technology:  
Sherwin Siy and David Sohn

Date: November 8, 2011

Conference call with the Business Software Alliance:

Emery Simon and Jesse Feder

November 10, 2011

Conference call with Microsoft:

Thomas Rubin and Jule Sigall

As Representative Lofgren noted at the hearing, I was also in California for several days in November 2011, but SOPA was neither the impetus nor the focus of my trip. The primary point of the trip was to speak to members of the California State Bar Association on November 11, 2011 about the activities of the Copyright Office, along with the Copyright Office General Counsel, David Carson, and the Associate Register for Policy and International Affairs, Michele Woods. Once the trip was planned, I requested an opportunity to meet some of the staff attorneys who work at U.S. motion picture companies. This meeting took place on November 10, 2011. Both meetings in California were planned months in advance of the trip.

As I stated during the hearing, I made a decision when I was appointed to my position (based on advice that I received from experienced policy experts) to engage in meetings outside of Washington from time to time, in order to make connections with those who have on-the-ground experience within the many diverse industries that form the copyright community. In other words, my November meeting with the motion picture companies was part of a more general commitment on my part to meet with stakeholders across the country, but for budgetary purposes it was scheduled to coincide with the bar association event. Similarly, I reached out to Microsoft while I was in Seattle for a meeting concerning copyright and print disabilities last July, and I met with representatives of the independent film and television industry while I was in Los Angeles for a Copyright Society meeting last February. I should note that all of my travel (and the travel of all staff of the Copyright Office) is governed by the Federal Travel Regulations and therefore reviewed in advance by appropriate Library personnel for compliance with applicable fiscal and ethical policies.

In the case of both meetings in California, the focus of my remarks, and those of the Office's General Counsel and Associate Register, were the same: the *Priorities and Special Projects* document mentioned above. Thus, topics covered in the meetings are as follows:

(1) The three studies the Office is conducting or has recently conducted for Congress (*i.e.*, small claims, legal treatment of pre-1972 sound recordings, and mass book digitization, discussed at page 5 of the *Priorities* document);

(2) The six policy issues that relate to copyright legislation (*i.e.*, rogue websites, illegal streaming, public performance right in sound recordings, orphan works, copyright exceptions for libraries, and market-based licensing for cable and satellite retransmission, discussed at pages 6-8 of the *Priorities* document);

(3) Our international work in support of the Patent and Trademark Office and Office of the U.S. Trade Representative (*i.e.*, intergovernmental work at the World Intellectual Property Organization and trade agreements, discussed at pages 8-10 of the *Priorities* document);

(4) The six priorities in administrative practice (*i.e.*, section 1201 rulemaking, DMCA agents, group registration option, registration and deposit of digital authorship, electronic upgrades to the Office's administration of statutory licenses, and technical recordation of terminations of copyright transfers, discussed at pages 10-12 of the *Priorities* document); and

(5) The ten special projects I mentioned in my oral statement during the hearing (*i.e.*, a fee evaluation, upgrades to the registration and recordation programs, revision of the Compendium of Copyright Office Practices, dialogues regarding the copyright marketplace, partnerships with the academic community, revision of the Copyright Office website, copyright education, public access to historical (and sometimes fragile) copyright records, and skills training for Copyright Office staff, discussed at pages 12-16 of the *Priorities* document).

I do not know the names of those who attended the California State Bar's conference, as that is a multiday, state event at which I was one speaker of many. We have confirmed that participants in the motion picture meeting were as follows: Jeremy Williams, Dean Marks, Dale Nelson, and David Kaplan of Warner Brothers; Catherine Bridge, Steve Ackerman, Gary Lim, and Jonathan Whitehead of Disney; Tom Kennedy, Mary McGuire, and Elizabeth Valentina of Fox; Dan Cooper of Paramount; Aimee Wolfson, Keith Weaver, and Gayle McDonald of Sony; Stacey Byrnes, Larry Liu, and Ian Slotin of Universal; and Karen Thorland of the MPAA. As I was meeting all but two of these individuals for the first time, the discussion was wide-ranging and questions flowed in both directions. Given the active legislative focus and impending hearing on rogue websites and online piracy enforcement measures, we received a number of questions about SOPA and PIPA, and we asked a number of questions of the participants. But, in fact, the discussion was briefer and less focused on SOPA and piracy than the meetings and calls we held during that same period with NetCoalition, Google, the Center for Democracy and Technology, Public Knowledge, the Business Software Alliance, and Microsoft.

Representative Lofgren also asked about my trip to New York in December. From December 8 to 11, I was in New York to accept an invitation to speak to a group of publishing lawyers, called informally the Publishers Lawyer Committee. While there, in the interest of maximizing the usefulness of the trip, I scheduled meetings to talk with some of the business staff (the publishers) of the member companies of the Association of American Publishers (AAP) and with the staff of the Authors Guild.

The AAP meeting was held on the afternoon of December 8, 2011, with the following attendees: Tom Allen of AAP, Allan Adler of AAP; Kyran Cassidy of HarperCollins Publishing Worldwide, Inc.; YS Chi of Reed Elsevier (via telephone); Brian Crawford of the American Chemical Society; Angela D'Agostino of the Cambridge Information Group; Ron Dunn of Cengage Learning, AAP Vice Chair; John Isley of Pearson Education North America; Susan King of the American Chemical Society; Carolyn Reidy of Simon & Schuster; Mark Seeley of Elsevier; Kathy Trager of Random House; and David Young of Hachette Book Group, AAP Chair. Again, we had a general discussion regarding the active work of the Copyright Office and an informal exchange of questions and answers.

On the morning of December 9, 2011, I met with Paul Aiken and Jan Constantine of the Authors Guild. I questioned them about the pressing concerns of authors, and they asked me questions about the small claims study, pending SOPA and PIPA legislation, orphan works solutions, and copyright registration fees.

On the afternoon of December 9, 2011, I delivered remarks to members of the Publishers Lawyer Committee, again focusing on the *Priorities and Special Projects* of the Office. The Committee, which includes many in-house lawyers, had reached out to me many months before, and this again was a long-scheduled event. We have confirmed that the following individuals attended: Benjamin Marks of Weil; Michael Bamberger of SNR Denton; Victor A. Kovner of Davis Wright Tremaine LLP; Elizabeth McNamara of Davis Wright Tremaine LLP; Elise Solomon of Hachette Book Group; Leslie Steinau of Wilk Auslander LLP; Paul Steven of Macmillan; Audrey Feinberg of Macmillan; Rick Kurnit of Frankfurt Kurnit Klein & Selz PC; Trina Hunn of HarperCollins Publishers; Kyran Cassidy of HarperCollins Publishers; Barbara Cohen of Oxford University Press; William Adams of Random House; Steven Weissman of Time Inc.; Roy Kaufman of Wiley-Blackwell; Jonathan Bloom of Weil; Mark Seidenfeld of Scholastic; Gloria Phares of Patterson Belknap Webb & Tyler; Richard Dannay of Cowan Liebowitz & Latman; Robert Solomon for Health Communications; Jeremy Goldman of Frankfurt Kurnit Klein & Selz; Linda Steinman of Davis Wright Tremaine LLP; Edward Rosenthal of Frankfurt Kurnit Klein & Selz; and Tricia Kallett of Abrams Books. Once again, this was my first time meeting all but a few of the attendees and I found the informal discussion that followed my remarks very useful.

In the written questions submitted to my office following the hearing, there are references to meetings with the Authors Guild and the Association of American Publishers on March 14, 2012. Although I presented a keynote address at the Association of American Publishers' annual meeting on March 14, at which hundreds of people and the press attended, I did not have any private meetings with the association or its member companies and I did not meet with the Authors Guild on that date.

Accepting invitations to speak about current copyright topics is of course part of my responsibilities as the Register of Copyrights and topics can be as varied as the

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workload of the Copyright Office. For example, my speech for the publishers traced the origins of copyright protection from the birth of the nation to the Supreme Court's recent opinion in *Golan v. Holder*, discussed the importance of fair use and freedom of expression, and noted the importance of public participation in policy debates. As another example, last month I delivered a conference keynote address at the Berkeley Center for Technology, in which I spoke about the need for a balanced legal framework for mass digitization, including orphan works solutions and updated exceptions to copyright law for libraries. As with the California State Bar Association event, we were not the organizers of these events and I was but one invited speaker of many. We are therefore unable to provide names for the hundreds of people who may have attended. These engagements, and the speaking engagements of my colleagues in the Office, are an expected and important part of our public outreach.

Respectfully submitted,

A handwritten signature in dark ink, reading "Maria A. Pallante". The signature is fluid and cursive, with the first name "Maria" being the most prominent part.

Maria A. Pallante  
Register of Copyrights