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May 31, 2013

Submitted by Online Submission Procedure

Hon. Maria A. Pallante
Register of Copyrights
U.S. Copyright Office
101 Independence Avenue, S.E.
Washington, DC 20559-6000

**Re: Technological Upgrades to Registration and Recordation
Functions**

Dear Register Pallante:

We are writing to express the views of the American Bar Association's Section of Intellectual Property Law (the Section) in response to the Copyright Office's March 22, 2013 Notice of Inquiry concerning technological upgrades to registration and recordation functions. The views expressed herein have not been submitted to or adopted by the ABA House of Delegates or the ABA Board of Governors, and should not be considered to be views of the Association.

The Section appreciates the Copyright Office's inquiry on this matter and has listed below recommendations offered from our members regarding the general areas in which the Copyright Office requested comments, specifically (1) "how stakeholders use the current online offerings...especially with respect to registration and recorded documents, and how the current offerings fail to meet, or exceed user expectations"; and (2) "...what online services, or aspects of existing services stakeholders would like to see" developed in the future. In gathering these recommendations from members, the Section noted the budgetary constraints and heavy workload under which the Copyright Office operates and made a particular effort to identify improvements to the Copyright Office's online system that could be accomplished quickly and/or may be feasible in terms of the cost of implementation.

The Section's suggestions, which are not ranked in order of importance, are listed below:

- Electronic filing should be expanded to include recordation.
- Online services should be expanded for filing and maintaining DMCA designation forms, especially in connection with creating an easier mechanism for updating agent contact information.
- An online repository of Copyright Office Board of Review decisions should be made available through the Copyright Office website.
- Samples or portions of registration deposit material should eventually be made available online, in order to, *e.g.*, assist the public in conducting searches to identify the owners of registered materials.
- Changes of address should be allowed other than by Form CA, in order to keep the copyright registration database accurate and up to date.
- Electronic applications should be made available for group registrations of material published in periodicals.
- PDF copies of certificates of registration should be made available online. These certificates appear to already be publicly available via computer terminals in the Copyright Office Reading Room, and their expanded availability would be particularly helpful in cases in which the certificate may contain additional details beyond what is available in the current online database of registration records.
- Pre-1978 registration records should be made available.
- There are sometimes significant delays in the appearance of registration records in the Copyright Office's online database following the issuance of corresponding registrations. If technology will allow the issuance and cataloging of registration certificates into online records simultaneously, this would be helpful for attorneys attempting to verify registrations.
- The Office should consider permitting users to add International Standards Organization ("ISO") approved, identification numbers to their registrations, either at the time of registration, or afterwards, when available to the user.
- With respect to recordation, the Copyright Office may wish to consider the technology used by the U.S. Patent and Trademark Office as a potential model for reflecting chain of title in an accessible format.
- A potentially low-cost improvement to the eCO claims interface could be to integrate "Tips" for practitioners with respect to each of the fields that need to be filled in, whereby an applicant could click a link to clarify the nature of the

information requested by the application. For example, a tip for the “Comments” field could list common types of information that the applicant may wish to include in that section (such as, *e.g.*, a request for special relief from the deposit requirement or trade secret designation of a computer programs application). Other “Tips” could seek to preempt the mistakes that online applicants have commonly made over the course of the six-year history of the eCO system, and/or could simply link to relevant Copyright Office Circulars. An internal survey of Registration Specialists could potentially help identify the areas in which errors are most often made, and providing guidance directed at these areas may reduce costs, correspondence with applicants and examining/processing times.

- In eCO applications for derivative works, the current size of the field that lists previous works is sometimes inadequate, and the Copyright Office may wish to consider expanding this field.
- The ability to send in a client's separate signature supporting an eCO application after the application and deposit have been filed electronically with the Register.
- Regarding the eCO claims system, it is important for attorneys to be able to present draft applications to clients for approval in an accessible format. The current format is not easily presentable to clients because, even when captured as a screenshot, the text of the eCO claims screen that displays a completed draft application is often tiny, in poor resolution and may be truncated (with text replaced by “...”) due to the inadequate size of the fields on the online form. If the eCO claims software can incorporate a mechanism to display completed applications in a more accessible format, such as, *e.g.*, a format akin to Form CO that is downloadable, or a forwardable link to a screen that would display the completed draft application, this would be extremely helpful to our members. In this regard, and as a more general point, closer alignment between the eCO interface and the appearance and content of the former paper forms would be a welcome development.
- In concluding an application for registration within the eCO system, the applicant must click through a button relating to transmission of deposit material, after which the application closes and further submissions are not accepted. A final button stating “Are you sure?” before the application closes would add clarity and avoid errors in accidental, incomplete filings.

Again, the Section appreciates the opportunity to comment on the Copyright Office’s inquiry regarding technological upgrades to registration and recordation functions and applauds the technological advances and efficiencies that the Copyright Office has made over the last

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U.S. Copyright Office
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decade. The Section hopes that its comments will provide the Copyright Office with useful insights as it seeks to expand and further develop its online offerings.

Very truly yours,

A handwritten signature in black ink, appearing to read "Joseph M. Potenza", written in a cursive style.

Joseph M. Potenza
Section Chair
American Bar Association
Section of Intellectual Property Law