

May 20, 2013

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

**Re: Comments to the Copyright Office on Notice of Inquiry Regarding  
“Technological Upgrades to Registration and Recordation Functions”  
78 Fed. Reg. 17722 (March 22, 2013)**

Dear Register Pallante:

The American Intellectual Property Law Association (AIPLA) is pleased to offer the following comments concerning the U.S. Copyright Office Notice of Inquiry regarding “Technological Upgrades to Registration and Recordation Functions” published in the March 22, 2013, issue of the *Federal Register*, 78 Fed. Reg. 17722.

AIPLA is a national bar association with approximately 15,000 members who are primarily lawyers in private and corporate practice, in government service, and in the academic community. AIPLA represents a wide and diverse spectrum of individuals, companies, and institutions involved directly or indirectly in the practice of patent, trademark, copyright, and unfair competition law, as well as other fields of law affecting intellectual property. Our members represent both owners and users of intellectual property.

AIPLA appreciates the Copyright Office’s efforts to improve the first generation electronic systems for handling applications for copyright registration and to develop functionality for recordation and submits the following comments for consideration.

**Broad Topic 1: How stakeholders use the current online offerings of the Copyright Office, especially with respect to registration and recorded documents, and how the current offerings meet, fail to meet, or exceed user expectations**

AIPLA’s members include attorneys engaged in private practice who have experience filing applications with the Office, many who were largely dissatisfied with the Copyright Office’s current online offerings, particularly the eCO system for filing copyright applications. Broadly speaking, our members were dissatisfied with the functionality of the eCO system in terms of the user interface, the way that information is stored, the way information is printed, and the

payment system. The user interface was described as "much too difficult," "confusing," "tricking new users into clicking [the wrong type of work]," and "difficult to determine the flow of steps." Additionally, several of our members were dissatisfied with the system's inability to accommodate preparation of an online application by an attorney followed by signature of the online application by a client.

**Broad Topic No. 2: How stakeholders would like to interact with the Copyright Office electronically in the future, or, put differently, what online services, or aspects of existing online services, would stakeholders like to see**

AIPLA's members requested that the eCO system for filing applications be re-engineered so as to create a more intuitive user interface that is easier for new users to navigate, that allows users to print and save data in a way that can be easily printed, viewed, and forwarded outside of the system, and that allows clients to sign applications prepared by attorneys. Our members referenced the TEAS and other online systems offered by the United States Patent and Trademark Office for trademark filings as superior. One member suggested a system that used fillable PDF forms that could be completed offline and later uploaded with the data imported into a structured database. AIPLA members are also interested in an online recordation system.

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Attached are specific comments received from members of AIPLA's Copyright Law Committee. These comments are included verbatim, without attribution.

AIPLA looks forward to working with the Copyright Office to enhance its online offerings.

Sincerely,

A handwritten signature in dark ink, appearing to read "Jeffrey I.D. Lewis". The signature is fluid and cursive, with the first name "Jeffrey" being more prominent and the last name "Lewis" following in a similar style.

Jeffrey I.D. Lewis  
President  
American Intellectual Property Law Association

**Comments of AIPLA’s Copyright Law Committee Members Regarding  
“Technological Upgrades to Registration and Recordation Functions”**

***Commenter No. 1***

“1. The ECO system does not have a method to allow for a client to sign the copyright application via email or upload of a PDF certification. This is allowed on Trademark filings.

2. The ECO system does not print well on standard size letter paper, so it is difficult and cumbersome to print the application data to review and/or send to a client to review.

3. The ECO system often saves the application data spread over 4 pages (should only require 2 as you know) with blank pages and sections that are cut-off. This has to be explained to clients and looks messy.

4. My **BIGGEST** complaint is that it is very difficult to talk to copyright examiners if there are any questions about an application. The general phone number for the Copyright Office often rings and rings and never connects to anyone, hanging up on you and asking you to call again. When examiners have questions or inquires, we get an email with a very short 20 day window to respond, but the examiner does not provide any phone number or email address to discuss issues. This lack of contact information, combined with the problem of the general number failing to connect you, makes it very frustrating trying to discuss anything. The email inquiry from the examiner is apparently not connected to their personal email but instead an electronic case file. Depending on how the message was coded in their system, your reply email may or may not reach the examiner. I had an examiner actually ask me not to call them so they didn’t have to make a record of the phone conversation. All combined, this is highly inefficient and frustrating. By comparison, the USPTO examiners always provide their email and direct telephone numbers and are required to call you back within 24 hours, even though responses are usually not due for 6 months.

5. Certificates of Registration are not reaching our office. We have had several that have had to be re-issued.”

***Commenter No. 2***

“We think that electronic system for recording assignments is an imperative improvement.”

***Commenter No. 3***

“As to Topics A(1) and (2), I find that the Records search function on the Copyright Office website is clunky, slow and does not return intuitively usable results. I would like to see the search portion of the website become more like the Trademark Electronic Search System (TESS) in both form and function.”

***Commenter No. 4***

“My main objection to the current system lies with eCO online which I believe is much too difficult for the average client. Generally, we do not file copyright applications for clients and instead help them through their first filing since most would choose to do it in-house instead of paying a lawyer to file. In the old paper days, it was very easy for a client to fill out two sides of a form and mail it in.

The current eCO system doesn’t plainly show a user where to click for Login to eCO. At a minimum, that area must be much larger so it jumps out to a user. The site is geared toward frequent users who already have a User ID and Password. Small blue print leads new users to how to register. Again, at a minimum have a bigger area for New Users to see on how to start.

Once in the page to Register a New Claim a new user sees a big bold “Step 1” which is only for information purposes. Again, the correct choice of “Start Registration should be the big and bold button making it obvious on what to choose. This continues for the entire process, tricking new users into clicking on “Literary Work” instead of looking at the bottom under Type of Work and selecting from a pull-down box.

Toward the end, the new user gets “Add to Cart” and “Checkout” which are confusing terms to a new user. The Payment Option is also more involved than needed. Why not make it more like the choices users see on commercial websites when they are making payments?

Their next problem is likely pop-up blockers. Since many users will not understand how to disable pop-up blockers, why use pop-ups? After having a pop-up blocked, the user then needs to know that they must go back to “Open Cases” to finish since they are kicked out of the work in process.

Basically, the entire application process should be rewritten by someone that works on commercial websites so the eCO website is more user friendly.”

***Commenter No. 5***

A.

*(1) how stakeholders use the current online offerings of the Copyright Office, especially with respect to registration and recorded documents, and how the current offerings meet, fail to meet, or exceed user expectations;*

“I am a lawyer in private practice and I use the eCO system approximately 10 times per year to submit claims on behalf of writers and software developers. I appreciate having an electronic system for submissions. However, I find the system difficult to use. The graphical user interface is confusing and it is difficult to determine the flow of steps, which action to take next and which button to select. It is not possible to review documents associated with “Closed” cases. The system displays data in a structured manner, but does not provide documents that can be distributed to others (such as clients of private lawyers). Generating stored copies of data that is

entered or submitted for cases requires the use of external browser capabilities and results in poorly formatted documents.

The payment interface is cumbersome because it is separate rather than integrated. The separation of the process of submitting deposit material from the rest of the data entry is awkward and requires the user to remember to submit deposit material even when an application otherwise appears to be complete. Overall, the user interface is not up to modern standards. On the positive side, the system appears fast and there have been no capacity or availability problems.”

*(2) how stakeholders would like to interact with the Copyright Office electronically in the future, or, put differently, what online services, or aspects of existing online services, would stakeholders like to see.*

“I would like to see the system re-architected using modern user interface design techniques. I would like to see the system discard the idea of using structured data entry and switch to a system of accepting filled-in fillable PDF forms, in the manner implemented at the USPTO for patent cases. In this system, users can obtain blank fillable PDF forms, fill them in offline, then connect to the system and upload the completed forms, after which data is automatically imported into structured USPTO systems. This system is superior because the PDFs are transportable to others by e-mail and formatted in an attractive and readable manner. I would like to see the system provide the capability to upload a form (e.g., TX) and associated deposit material at the same time, and auto-generate an acknowledgment receipt in PDF rather than in a separate e-mail. I would like to have an integrated payment interface like the one at the USPTO. I would like to be able to access a case, whether pending or closed, at any time and download copies of documents from the file.”

**B.**

*(1) the nature and capabilities of the Copyright Office’s public portals (e.g., for electronic registration services), including interface-based portals as well as business-to-business portals, or access to Copyright Office services or data through application program interfaces and the like;*

“I do not perceive a need for API-based access. I do see the need to be able to download case data in the form of a well-formatted PDF or other electronic document. Merely obtaining an on-screen display of data in various fields is insufficient.”

#### **Commenter No. 6**

“A welcome innovation would be the ability to submit the author's signature in a subsequent filing (after the eCO application is filed), similarly to what we can now do with TEAS applications filed with the USPTO.”

***Commenter No. 7***

“The current electronic filing is great! If they can improve this, I am willing to use it. In particular, the choices are sometimes too limited. I would like to see fixed box answers, addition of the option to select “Other” and a box to add the other. For example, for co-authors, the system should allow for identification of what each author created e.g. photos and multimedia, selection of musical accompaniment, etc.”

***Commenter No. 8***

I generally agree with almost all of the comments submitted [by AIPLA members to date]. Some may not be aware of documents and manuals such as this: <http://www.copyright.gov/eco/eco-tutorial.pdf>

However, even with this guide, eCO is still pretty painful to use. We file many copyright apps a year. We ought to be able to print at least a copy of the application as filed to provide to the client. On regular 8.5 x 11 sized paper. The TEAS system, as noted by one or more commenters, is a terrific system and should be used as a guide. The embedded payment system is also very good; The Copyright Office should be able to do this as well, instead of using pay.gov. Perhaps most crucial, is that the process for filling out an application online is 10 times more difficult than filling out the form and filing manually; but you have to use the system in order to gain the benefit of examination time. The electronic interface should be as easy, if not easier, than filling in the paper form. The TEAS wizards should be a good model for this process.

Upload of deposit copies should be streamlined.

The .obj files used in TEAS are fantastic for saving forms and going back to start subsequent applications for the same client, or similar situations for other clients. The Copyright system now saves the application as separate work orders and they are gone when you are done (at least I cannot figure out how to get them for future use). The whole “order”-ing process is a bit odd to me. I do not find any real reason to have a “cart” in this process, or to “check out.”

As to the searching system, my main quarrel is credibility. I know I have searched for items that should be there, and come up empty. I have little confidence in the present search system that the results are accurate. Contrast this with TESS. I have absolute confidence that the searches are accurate.

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