

Although I retired exactly a year ago from the Copyright Office as Associate Register for the registration system, my heart (and head) remain with copyright law. The following are a few comments on the March 22, 2013 Federal Register notice-- technological upgrades for registration and recordation.

1. The Copyright Office (“Office”) has known for some time that its electronic system for registering claims to copyright must be user-friendly. “User-friendly” refers to those who are the Office’s customers as well as the Office’s staff. Over recent years, the registration staff has offered many suggestions to make the system easier to navigate; many of these suggestions have been taken into account. I am versed in copyright law, not in technology specifics, but I offer a few general principles that might render copyright records more useable.

As an examiner many years ago, I became convinced that the records for a given work should be found together within the Office’s database; as chief of Examining in the late 1990’s and early 2000’s, I saw the necessity for such data-relationship as being even greater. The coin of the digital / online realm in which we now live and do every kind of business is information.

If work ‘X’ is registered, a change to the record for ‘X’ that would ordinarily be sent to the Office as a supplementary registration should, I think, more logically be attached to X’s basic registration record within the Office’s database, not through a separate registration carrying a different registration number. This separate registration sometimes (and sometimes does not) get cross-referenced to the original. It might improve the overall database if supplementary registrations were directly connected to the basic registrations. The office would enter the supplementary registration directly into the original record and would accurately note ‘changed

information.’ One record would contain all relevant information for a given work owned by a given claimant.

Another example-- If ‘X’ is revised and published in its revised form five years after it originally appears, why wouldn’t all registration information pertinent to revised ‘X’ be entered into the same ‘X’ registration record, *assuming* the same copyright owner as in the original record? Further, if the owner of the movie rights in ‘X’ transfers the movie rights to ‘C’ and records the contract showing that fact, why wouldn’t such document be recorded with the Office as part of the complete copyright record for ‘X’? ** One caveat, however : registration (and recordation) records cannot be commingled. In order to keep and present as a reliable archive an extremely large set of easily and rationally findable copyright records, the long-standing Office rule that the same party / same parties must be the copyright owner (claimant) within a number of records that can possibly be combined, for the sake of efficiency and common-sense relationship, must be the overarching principle for data preservation if such combining is desired and then achieved.

Again, I am not an expert in digital record-keeping, but I believe that software and database tools exist for bringing together all data associated with a given owner of a copyright in order to create records that are informative and which would provide relevant information without a searcher having to follow a series of computer-directed steps that might imply multiple search terms, multiple functions and multiple files. The Office’s technology staff would be capable in structuring such a system.

2. Associated with this is the suggestion that copyright records might exist at the Copyright Office in a *more inclusive format meant to aggregate multiple copyright actions* where a copyright owner is the same party in the same work (or a changed copyrightable edition of that work). This might more easily provide the user (the registration applicant with varying degrees of copyright knowledge, or the copyright attorney, or the Office's staff) with any and all relevant copyright information for a work or its owner. Further, a given record might contain relevant data of the work's progression for registration/recordation within the Office itself. As a customer can track within an online merchant's site the travel (both within and beyond the merchant) of his purchases, so, too, should a user of the Office's systems be able to track what has happened to his/her claim. Much of the status of claim progress is available right now from the Office; improvement in this area of the Office's service, though, is always desirable. The capacity to track claims, to track documents (when that piece of the Office's statutorily-mandated record-keeping is addressed), to confirm what has been received and when, and even to request further Office actions (such as ordering a copy of a certificate of registration) would make the Office's services comparable to those offered by the rest of computer-assisted commerce.

3. A final comment. For a few years I served as special legal assistant for registration when Marybeth (Peters) was Register. Marybeth made a particular and very valuable executive decision that, I believe, will ultimately serve well the Office as it will equally serve copyright industries / businesses. Although the Office is a department of the Library of Congress, the Office now creates (unlike the Library) records of works which records give copyright information as opposed to bibliographic (library) information. It is this copyright information, in

the form of consistent, accessible and legally meaningful data, that should make the Office a one-stop shopping site for the copyright / protectibility status of so many works.

Behind the records are the metadata which allow one to understand the structure and use of data represented in a file or record of a copyright in a given work. Metadata generally reflect the standards that many organizations (including libraries with the Library of Congress in a leadership role) use in order to create and interpret records that are widely and easily understood so that these files, or records, can be utilized and future generations can explain the data themselves which constitute the record.

I am not certain whether a Federal Register announcement has been issued since 2003 that emphatically explained the structure of Office registration records, the meaning of the data, and in what manner those records may be updated and preserved without losing factual and original copyright information. If such announcement, with needed input from the user public and Office staff (including technology staff), has not yet been issued, the Office might determine what digital record-keeping model and its constituent metadata are most amenable to the Office's 'official' accumulation of copyright data within a necessarily flexible, legally valuable archive.

Because the Office is an office of record, it must be able to provide original, *unchanged* copyright information. This information itself should be understandable and accompanied by metadata -- data about data-- that explains, for instance, the purpose of an entry of recordation data, the copyright legal meaning of "author" or of "publication date," a key to the explicit description of physical registration deposits including digital deposits for sound recordings and movies or perhaps explanatory metadata about the nature of software deposit. In other words, metadata should elucidate the significance of why particular data is part of a registration file.

The Office should, by Federal Register, *define* and clarify its *data record-structure*, the particular template embodying that data, as well as the metadata employed in creating, archiving, and any updating of the records so that preservation of copyright information (to be reliable years from the point of original creation of a copyright file) may continue over time along with time changes in technology. Management of copyright registration and recordation content as it faithfully existed upon entrance into the Office's database-- for the benefit of those who depend now and in the future on such factual content-- must be balanced with technical advancements in metadata which describe and explain the existence, purpose, and format of the data.

Best wishes to the Office staff and congratulations to Rob, my successor.

Nanette