

**Motion Picture Association of America**  
**Submission in Response to Library of Congress Survey**  
**on Desirable Characteristics**  
**of the U.S. Register of Copyrights**



**Jan. 31, 2017**

**1. What are the knowledge, skills, and abilities you believe are the most important for the Register of Copyrights?**

Knowledge. What's at stake in the selection of a Register of Copyrights is not just U.S. cultural and intellectual development, but economic development, as well. According to a 2016 study by the International Intellectual Property Alliance, the core U.S. industries that produce and distribute copyrighted works now contribute more than \$1.2 trillion dollars to the United States' gross domestic product, representing almost 7 percent of the U.S. economy; employ more than 5.5 million workers; and generate foreign sales of almost \$180 billion, more than each of the chemical, aerospace, agricultural, electrical, pharmaceutical, and medical products industries.

With the Copyright Act, Congress has given the Register of Copyrights a critical role in promoting U.S. creativity, knowledge, innovation, and growth. It has done so by directing the Register to administer U.S. copyright law, to serve as Congress' expert advisor on copyright policy, and to provide information and assistance to federal agencies and courts on domestic and international copyright matters. The Register's fulfillment of this role is critical for Congress to meet its charge under the Constitution's Copyright Clause "[t]o promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries."

Any Register must therefore be committed to the constitutional framework that respecting creators' rights to determine how to disseminate their works promotes creation and wide distribution of knowledge and culture, not only enabling creators to earn a living by following their muse, but also benefitting the public. She or he should recognize how copyright helps drive the local and national economies. The Register must understand the statutory role and function of the Copyright Office, and be fluent in the Copyright Act, its legislative history, the court decisions interpreting it, and the international agreements and instruments bearing on copyright. She or he should have prior, practical experience with licensing and protecting intellectual property; knowledge of the registration and recordation process and of the Office's role in interpreting and administering statutory licenses; and familiarity with the community of creators, licensors, and licensees that depend on copyright and the Copyright Office. To help serve copyright holders, copyright users, and the public, the Register should understand information technology systems and how they might improve internal and external Copyright Office operations. Because she or he will interact with and advise other government entities, the Register should be familiar with the inner workings of the White House; the legislative, regulatory, and budget processes; and how interagency coordination works.

Skills. As the head of an agency that administers the law governing a significant economic sector, the Register must have strong managerial and budgetary skills. Because much of the job

involves providing information, analysis, and advice, as well as appearances at congressional hearings and other public fora, she or he must have strong written and oral communication skills, particularly on complex legal matters.

Abilities. As the caretaker of the Copyright Act, the Register must be able to articulate a vision for copyright policy and how the Copyright Office can serve that policy. She or he must be able to engage in diplomacy, including with foreign officials, and to navigate the statutory and regulatory environment. The Register must also be able to support other agencies and officials by providing expert counsel on proposed regulations, interpretations of copyright law, and filings with courts in copyright-related cases.

## **2. What should be the top three priorities for the Register of Copyrights?**

The Copyright Act sets out the scope of duties and requirements of the Copyright Office and the Register. A properly qualified Register should not only be able to set her or his own priorities—within that statutory construct—to improve the effectiveness of our copyright system, but should also have ultimate decision-making authority and accountability, subject to Congressional oversight. Public consultation is a useful tool to help the Register, but the responses to this survey or other solicitations for comment can only be a guide, and cannot be seen to limit or otherwise dictate to the Register what her or his priorities will be. What follows are our suggestions for the Acting Register, and any Register to follow, to consider:

- a. Promote copyright as an engine of creativity, knowledge, and the economy by meeting the Copyright Office’s statutory obligation to provide expert, impartial, unfiltered advice to Congress, agencies, and the courts.
- b. Modernize the Copyright Office, the registration and recordation process, and the IT system, including by implementing the Copyright Office’s recently released strategic and IT plans.
- c. Help improve the environment in foreign markets by supporting the negotiation and implementation of trade agreements to ensure those markets respect intellectual property and protect copyrighted works.

## **3. Are there other factors that should be considered?**

The Copyright Office has a statutory obligation to provide expert, impartial, unfiltered advice to Congress, agencies, and the courts. The Register must be given the autonomy to do so, and the structure of the Copyright Office must support that mission.

The House and Senate Judiciary Committees, which have jurisdiction over copyright law and the Copyright Office, have been engaged in a thorough, public, four-year examination of Copyright Office structure and how to modernize it. The MPAA therefore suggests that the Librarian coordinate closely with the House and Senate Judiciary Committees on any decisions regarding the Copyright Office and the Register. The Copyright Office currently has a talented Acting Register in Karyn Temple Claggett, so there is currently no vacancy in pressing need of filling.