

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

SFWA believes that the Register of Copyrights should have as their primary duty the protection of copyright and creators' rights. Ideally, the Register will be someone who themselves creates and owns intellectual property and has a deep understanding of the problems and challenges that creators face. The job will involve the creation and maintenance of robust databases of intellectual property and, hopefully, creators themselves, to mitigate the orphan works dilemma that will only grow worse in the years to come. Such work entails understanding in depth how to implement very large, flexible databases and user-friendly interfaces and forms; this knowledge is essential to any 21st Century Register of Copyrights.

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

**Priority #1:** Protection of copyright and creators' rights.

**Priority #2:** Consultation with those persons that the Constitution establishes as the beneficiaries of copyright – the natural persons who are "Authors."

**Priority #3:** Coordination with the Patent and Trademark Office (Department of Commerce) and the United States Trade Representative.

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

The Register of Copyrights should have autonomy and a budget commensurate with their increased responsibilities.

We believe that the Copyright Office should not be financed by registration, recordation, or other fees levied on rightsholders. Such fees are counterproductive in that they discourage rightsholders (and their successors in interest) from registering their works and updating ownership information; the goal of the Copyright Office should be to provide publicly accessible information regarding the copyright status of specific works by leveraging digital technologies and the Internet to reduce fees to the lowest possible levels, such that they only reimburse the Office for the actual expenses involved. The Register of Copyrights can not reasonably be expected to do a good job under the current budgetary and bureaucratic restraints.

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Statements of Interest

SFWA is a nonprofit membership organization of over 1,800 commercially published writers of science fiction, fantasy, and related works. Its membership includes writers of both stand-alone works and short fiction published with other works. SFWA is not a subsidiary of any other entity, and is entirely owned by its membership. SFWA has no subsidiaries or other ownership interest in any other organization that may be affected by this testimony. SFWA members run their own small businesses, whose product is the written word.

#### **Register of Copyrights and Copyright Office Structure**

SFWA believes that the Register of Copyrights should have as their primary duty the protection of copyright and creators' rights. Ideally, the Register will be someone who themselves creates and owns intellectual property and has a deep understanding of the problems and challenges that creators face. The job will involve the creation and maintenance of robust databases of intellectual property and, hopefully, creators themselves, to mitigate the orphan

works dilemma that will only grow worse in the years to come. Such work entails understanding in depth how to implement very large, flexible databases and user-friendly interfaces and forms; this knowledge is essential to any 21st Century Register of Copyrights.

SFWA agrees with the House Judiciary Committee's policy proposal that the Copyright Office should be separated from the Library of Congress as quickly as possible. How it is administered after that depends upon several factors. It should be in a position to independently determine its budget and, as much as possible, be able to determine its own priorities, subject to oversight by the Judiciary Committee. We accept the Judiciary Committee's proposal for keeping it as part of the Legislative Branch, but other options might work just as well. What is most important is that the Register of Copyrights have autonomy and a budget commensurate with their increased responsibilities.

We believe that the Copyright Office should not be financed by registration, recordation, or other fees levied on rightsholders. Such fees are counterproductive in that they discourage rightsholders (and their successors in interest) from registering their works and updating ownership information; the goal of the Copyright Office should be to provide publicly accessible information regarding the copyright status of specific works by leveraging digital technologies and the Internet to reduce fees to the lowest possible levels, such that they only reimburse the Office for the actual expenses involved. The Register of Copyrights can not reasonably be expected to do a good job under the current budgetary and bureaucratic restraints.

We also believe that the Register of Copyrights should be sensitive to the needs and expertise of two related and coordinate executive-branch units: The Patent and Trademark Office (Department of Commerce) and the United States Trade Representative. As just one recent example, the coordination difficulties inherent in the present structure became glaringly obvious during negotiation of the recently-abrogated Trans-Pacific Partnership (and in the final product of those negotiations); it was readily apparent that negotiators assumed that the default patent/trademark practice of corporate ownership also applied to copyright holders without an adequate warrant for believing so. SFWA's own membership itself refutes that assumption for at least a discernible subset of copyrighted works.

Finally, SFWA suggests that the Register should consult first with those persons that the Constitution establishes as the beneficiaries of copyright – the natural persons who are "Authors." This is not to say that the interests of employers for hire, transferees, distributors, and the public at large can or should be ignored; it is, instead, a suggestion that the Constitution's emphasis on "Authors" should be reflected in the way the Register seeks input on policies and procedures by consulting them first.

**Respectfully submitted for SFWA,**

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