

December 19, 2024

Via e-mail

Suzanne Wilson
General Counsel and Associate Register of Copyrights
U.S. Copyright Office
101 Independence Avenue S.E.
Washington, DC 20559-6000

Re: Summary of ex parte meeting regarding Docket No. 2023-3, Access to Electronic Works.

Dear Ms. Wilson,

On December 16th, the News/Media Alliance (“N/MA”) met with representatives from the U.S. Copyright Office (the “Office”) to discuss the Office’s notice of proposed rulemaking relating to access to electronic works dated September 1, 2023.

Representatives from the Copyright Office were Suzanne Wilson, General Counsel and Associate Register of Copyrights, Brandy Karl, Assistant General Counsel, Laurie Ann Taylor, Attorney-Advisor, Robert Kasunic, Associate Register of Copyrights and Director of Registration Policy and Practice and Erik Bertin, Deputy Director of Registration Policy and Practice. Participants in the meeting on behalf of N/MA were Regan Smith, SVP & General Counsel and Johannes Munter, J. Munter Consulting Ltd.

N/MA expressed appreciation for the Office’s consideration of N/MA’s views as the rulemaking progresses. Given the Office’s many activities, we again encouraged the Office to ensure registration remains prioritized by updating the regulatory language of the recent rule on group registration of updates to a news website to remove the content-based requirement that eligible websites must cover “all news,” in order to address First Amendment concerns,¹ incentivize registration, and make more copyrighted works available for the Library of Congress’ collections.

Assuming the Office proceeds with this rulemaking, we recommended articulating and preserving existing access conditions to avoid encroaching on news publishers’ existing revenue streams. For example, the rule might enumerate that copyright deposits are treated by the Library as rights restricted materials, similar to those received under special relief agreements, that access is limited to the Stacks terminals at Library’s Capitol Hill location with only two simultaneous registered users

¹ See, e.g., *Vidal v. Elster*, 144 S.Ct. 1507, 1514 (2024); *Bleistein v. Donaldson Lithographing Co.*, 188 US 239, 251 (1903).

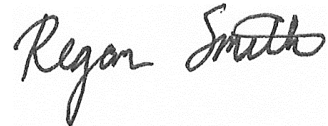


per deposit; that applicable technological protection measures are to be maintained under the rule; that electronic deposits will not be shared pursuant to inter-library loan or surplus books programs; and that Library users may not make copies or access material remotely.

In addition, it may be helpful for the Library itself to reasonably share more information about its access and security policies with respect to electronic materials received through copyright registration, to further public understanding by registration stakeholders who may be less familiar with the Library's operations. For example, this could include explaining how rights restricted materials are treated differently from public domain materials.

N/MA appreciates the Copyright Office's consideration of the views discussed during the meeting and remains available to respond to any follow-up questions.

Sincerely,

A handwritten signature in black ink that reads "Regan Smith". The signature is written in a cursive, flowing style.

Regan Smith
Senior Vice President & General Counsel
News/Media Alliance