



American Intellectual Property Law Association

February 20, 2024

The Honorable Shira Perlmutter
Register of Copyrights and Director
U.S. Copyright Office
101 Independence Avenue, SE
Washington, DC 20559-6000

Re: Comments Submitted Pursuant to Notice of Proposed Rulemaking: Group Registration of Updates to a News Website, 89 Fed. Reg. 311 (Jan. 3, 2024)

Dear Register Perlmutter:

The American Intellectual Property Law Association (AIPLA) is pleased to offer comments in response to the above-referenced U.S. Copyright Office Notice of Proposed Rulemaking related to group registration of updates to a news website. We commend the Office for exploring opportunities to expand access to group registration options, and we support the overarching goals and purposes set forth in the Notice.

AIPLA is a national bar association of approximately 7,000 members including professionals engaged in private or corporate practice, in government service, and in the academic community. AIPLA members represent a wide and diverse spectrum of individuals, companies, and institutions involved directly or indirectly in the practice of patent, trademark, copyright, trade secret, and unfair competition law, as well as other fields of law affecting intellectual property. Our members represent both owners and users of intellectual property. Our mission includes helping establish and maintain fair and effective laws and policies that stimulate and reward invention while balancing the public's interest in healthy competition, reasonable costs, and basic fairness.

We support the new group registration proposal and we offer some comments that may further improve the proposal. First, we note that the proposed definition of a “news website” is a “website that is designed to be a primary source of written information on current events, either local, national, or international in scope, that contains a broad range of news on all subjects and activities and is not limited to any specific subject matter.” We encourage the Office to reconsider and clarify the final clause – “not limited to any specific subject matter” – which could be construed as excluding news websites with an industry-specific focus (e.g., wired.com), and thus unnecessarily limiting access to this group registration option.

Similarly, we note that the definition of “website,” while generally suitable at the conceptual level, may prove too narrow. This term is defined as “a web page or set of interconnected web pages that are accessed using a uniform resource locator (‘URL’),” but web pages are composed of various elements, like text, images, and videos, and these elements may not all be accessed using a common domain name. For example, videos and other content might be hosted on a different server than the one hosting the main webpage for reasons such as efficiency, speed, and cost. We recommend that the Office revise or clarify this definition to

reflect that while a website is generally identified by a single domain name, it is not necessarily limited to content accessed using that domain name.

The Office also sought comments on whether applicants should have the opportunity to provide additional information in connection with a group registration, such as individual article or photograph titles. We enthusiastically encourage the Office to offer this opportunity to applicants, but we also believe this should be left to the applicant's discretion, and not mandatory. Part of the impetus behind this group registration option is addressing practical burdens on registration under existing options. If this information is mandatory, the burden of using this option will be heightened, which would frustrate the purpose of this regulation and would likely be an impediment to registration under this option.

We also note that some of the regulatory requirements appear to be related to the current capabilities of the Office's technological framework, and especially electronic registration systems. For example, the regulations require that each collective work in the group must have been created as a work made for hire, which would result in a single author for all of the collective works in the group. However, we see no clear policy reason to disfavor registration of copyrights acquired through other means (e.g., by assignment). To the extent these proposed regulations reflect practical or technical limitations that exist at present, we encourage the Office to be proactive in revisiting these regulations in the future and removing any regulations obviated by the evolution of its technological framework.

Finally, we note that the concerns underlying this specific proposal are applicable to other categories of copyrightable works as well. The Notice observes that copyrightable content is increasingly distributed, displayed, and performed via the Internet, often on websites whose content changes rapidly. These concerns apply not only to news reporting, but to all websites whose content changes rapidly. Likewise, the Notice observes that the deposit requirement is challenging for websites due to the inherent nature of a website, which is difficult for registrants to capture in its entirety, and also difficult for the Office to assess. Again, these concerns are applicable to many websites in addition to news reporting. We thus encourage the Office to be active in identifying other types of websites to which this group registration framework is applicable.

AIPLA again commends the Office for seeking to expand group registration options. We appreciate the opportunity to provide these comments and would be happy to answer questions they may raise.

Sincerely,



Ann M. Muetting
President
American Intellectual Property Law Association