

Senate Considers a New Intellectual Property Organization

On September 18, the Senate Judiciary Committee conducted a hearing concerning "The Omnibus Patent Act of 1996" (S.1961), legislation introduced by Senator Hatch (R-UT) to reform the U.S. Patent and Trademark Office (PTO) and potentially sever the ties between the Library of Congress and the U.S. Copyright Office.

Among those testifying were Senator Frank R. Lautenberg (D-NJ), Bruce A. Lehman, Commissioner of Patents and Trademarks, Marybeth Peters, Register of Copyrights, and William Patry, Professor of Law at Yeshiva University.

In his statement, Bruce Lehman emphasized support by the Administration for many of the reforms proposed by Senator Hatch. He stressed the fact that because the PTO relies on revenue from fees, there is a need for "operational flexibility" in order to serve the public in a more efficient manner. He also suggested that the reinvented office, which would be called "The United States Intellectual Property Organization," be a performance-based organization (as envisioned by Vice President Gore) in which it has "greater accountability and responsibility."

Mr. Patry also expressed support for the legislation and added that the Copyright Office was "a poor stepchild," a reference to the seemingly small amount of the Library of Congress budget that is allocated to the Copyright office.

Marybeth Peters expressed serious concerns about the proposed legislation, especially with regard to Title I, which includes plans for removal of the Copyright Office from the Library of Congress. These concerns reflect those of many in the library and publishing communities. Studies conducted by the Copyright Office show that with the reforms proposed in S. 1961, fees for registration of copyright would increase by five times the current amount. According to Ms. Peters, this rise in fees would cause registrations to decrease, thus diminishing access to many works.

Some members of the Committee, including Senator Thompson (R-TN) and Senator Simpson (R-WY), questioned the need for such reform and were highly skeptical. Senator Thompson stated that he wondered whether this was a solution in search of a problem.

ARL, other members of the Shared Legal Capability, the Association of American Publishers, and the National Humanities Alliance sent a joint letter to the Committee that stated:

No action should be taken to move this proposal toward enactment until the Committee has had a full opportunity to consider the concerns of authors, publishers, libraries, and other producers and users of copyrighted works regarding potential adverse consequences that are likely to result from the legislation's proposed requirements for the Copyright Office to become entirely self-supporting through its service fees, while also providing one-third of the annual budget for the proposed new Office of the Commissioner of Intellectual Property. We believe these consequences will include exorbitant increases in copyright registration and recordation fees which can be expected to trigger substantial reductions in the number of registrations and accompanying deposits of copyrighted works at the Copyright Office; in turn, these reductions in registrations and deposits can be expected to harm significant U.S. cultural, educational and business interests by impeding the copyright database activities of the Library of

Congress.

It remains unclear whether the benefits for intellectual property policy-making which are supposed to result from the restructuring are in fact likely to occur, or whether any benefits in this area would be outweighed by the loss of other public benefits that have flowed from the special relationship that has existed between the Copyright Office and the Library of Congress for well over a century. Historically, the Copyright Office's placement within the legislative branch has allowed it to be an independent voice for ensuring balanced treatment of copyright-related matters.

Based on the testimony of the witnesses, statements from others in the library and publishing communities and opposition from others on the Judiciary Committee, Senator Hatch agreed to pull Title I with respect to the Copyright Office from the legislation and to reconsider this matter at another time. Provisions in this and another copyright-related bill, H.R. 1861, the Copyright Clarifications Act of 1996, failed to pass the Senate prior to the end of the session.

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For [more information](#) about The Omnibus Patent Act of 1996 or the Copyright Clarifications Act of 1996, including the full text, search in [Thomas](#), The Library of Congress's Legislative Information on the Internet.

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