



ANNOUNCEMENT

from the Copyright Office, Library of Congress,
101 Independence Avenue, S.E., Washington, D.C. 20559-6000

NOTICE OF REQUEST FOR INFORMATION.

PROMOTION OF DISTANCE EDUCATION THROUGH DIGITAL TECHNOLOGIES

The following excerpt is taken from Volume 63, Number 220 of the *Federal Register* for Monday, November 16, 1998 (pp. 63749-63750)

LIBRARY OF CONGRESS

Copyright Office

[Docket No. 98-12]

Promotion of Distance Education Through Digital Technologies

AGENCY: Copyright Office, Library of Congress

ACTION: Notice of request for information.

SUMMARY: As required by section 403 of the Digital Millennium Copyright Act, enacted October 28, 1998, the Copyright Office is initiating its study of the promotion of distance education through digital technologies, for the purpose of making recommendations to the Congress. Presently, the Copyright Office is establishing parameters for its study of the issues. Through this preliminary notice, the Office seeks to identify all interested parties and determine what matters those parties deem relevant and important. The Office anticipates the possibility of consultations and public meetings, as well as the submission of formal statements. At this time, the Copyright Office is soliciting only the identification of any and all potentially interested parties and an identification of the issues with which they may be concerned.

DATE: Written submissions are due by December 7, 1998.

ADDRESSES: If sent by mail, an original and five copies of written submissions should be addressed to Shira Perlmutter, Associate Register for Policy and International Affairs, Copyright GC/I&R, P.O. Box 70400, Southwest Station, Washington, D.C. 20024. If hand delivered, an original and five copies

of written submissions should be brought to the Office of Policy and International Affairs, Office of the Register, James Madison Memorial Building, Room LM-403, 101 Independence Avenue, S.E., Washington, D.C. 20559-6000.

FOR FURTHER INFORMATION

CONTACT: Shira Perlmutter, Associate Register for Policy and International Affairs, or Sayuri Rajapakse, Attorney-Advisor, Office of Policy and International Affairs. Telephone (202) 707-8350. Fax: (202) 707-8366.

SUPPLEMENTARY INFORMATION:

Background

In April 1998, Senator Orrin G. Hatch, Chairman of the Senate Committee on the Judiciary, with Senators Patrick J. Leahy and John Ashcroft, sent a letter to the Register of Copyrights requesting the Copyright Office to facilitate a series of discussions to be held on the subject of an exemption for digital distance education to be included in the Digital Millennium Copyright Act of 1998 ("DMCA"). Senators Hatch, Leahy and Ashcroft further requested the Copyright Office to report its findings to the Committee, and to develop policy options and legislative recommendations.

On April 27-28, 1998, the Register of Copyrights and her staff held intensive discussions with certain interested parties, including representatives of copyright owners, nonprofit educational institutions, and nonprofit libraries and archives. Through the process of negotiation it was possible to identify some areas of potential agreement among the parties. It also became clear,

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however, that many complex and interrelated

issues were involved. All of these issues could not be given appropriate consideration in the time available. On April 29, 1998, at the conclusion of the discussions, the Copyright Office submitted its recommendations to Senators Hatch, Leahy and Ashcroft in the form of statutory language for a narrow amendment to 17 U.S.C. 110(2), and a proposal for a study of the issues involved in interactive digital distance education. Rather than amending section 110(2) in the DMCA, the Senate mandated a broad study of the overall subject by the Copyright Office. Such a study was also incorporated into the version of the bill passed by the House.

On October 28, 1998, H.R. 2281, the Digital Millennium Copyright Act, was enacted into law. Section 403 requires that the Copyright Office consult with representatives of copyright owners, nonprofit educational institutions, and nonprofit libraries and archives, and thereafter to submit to Congress recommendations on how to promote distance education through digital technologies, including interactive digital networks, while maintaining an appropriate balance between the rights of copyright owners and the interests of users. Such recommendations may include legislative changes.

The Register of Copyrights has been instructed to consider:

- (1) The need for an exemption from exclusive rights of copyright owners for distance education through digital networks;
- (2) The categories of works to be included under any distance education exemption;
- (3) The extent of appropriate quantitative limitations on the portions of work that may be used under any distance education exemption;
- (4) The parties who should be entitled to the benefits of any distance education

exemption;

(5) The parties who should be designated as eligible recipients of distance education materials under any distance education exemption;

(6) Whether and what types of technological measures can or should be employed to safeguard against unauthorized access to, and use or retention of, copyrighted materials as a condition of eligibility for any distance education exemption, including, in light of developing technological capabilities, the exemption set out in section 110(2) of title 17, United States Code;

(7) The extent to which the availability of licenses for the copyrighted works in distance education through interactive digital networks should be considered in assessing eligibility for any distance education exemption; and

(8) Such other issues relating to distance education through interactive digital networks that the Register considers appropriate.

Request for Information

The Copyright Office is initiating its study of the issues related to the promotion of distance education through digital technologies. In order to assist in planning and establishing parameters for the study, the Office is hereby seeking identification of any potentially interested parties and the issues with which they may be concerned.

After this preliminary information is gathered, the Office will determine what additional activities are helpful and appropriate. Such additional activities may include consultations and public meetings, as well as the submission of formal statements.

Written submissions will be accepted from all interested parties. While there is no prescribe format for these initial informational statements, any written submission should include the interested party's name, title, organization, mailing address, telephone number, facsimile number, and e-mail address, if available, and a list and short description of any issues that he or she considers relevant and important.

Marybeth Peters,
Register of Copyrights.

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