

MEMORANDUM

DATE 10/21/2016
TO Maria Pallante
FROM Carla Hayden *CH*
Librarian of Congress
SUBJECT Reassignment to Senior Advisor to the Librarian of Congress

Effective today, I am reassigning you to the position of Senior Advisor to the Librarian. I need your expertise on the application of copyright law as I plan for the Library to expand its service to the American people by making the national collection as widely accessible as possible and ensuring that it includes digital works as well as traditional materials. I want to be sure that we execute these plans in full consideration of both the special provisions that copyright law makes for the Library of Congress and our responsibilities to copyright owners. Your expertise will be very helpful in accomplishing these goals. I have three specific assignments to begin your new duties.

Mandatory Deposit of Digital Works

I have reviewed your memo to Dr. Billington of Dec. 19, 2014 regarding mandatory deposit of digital works (Attachment 1) which includes recommendations on strengthening and clarifying mandatory deposit provisions and steps the Library could take in the near term to acquire digital works through mandatory deposit. Please provide a detailed implementation plan that includes priorities and next steps for:

- Using special relief agreements to acquire born digital works that fit within Library collection development policies.
- Promulgating regulations to address deposit of new classes of born digital works.
- Proposing legislative changes regarding the definition of "best edition," authority to harvest content from the Internet, and other adjustments that would enhance the Library's ability to build and preserve the national digital collection.

**Best Practices for Determining the Copyright Status of published printed U.S. Works
- 1923-1963**

According to analysis from the HathiTrust, as many as 50% of the books published in the U.S. between 1923 and 1963 may be in the public domain. To maximize our ability to

make the national collection available online, the Library needs a well-defined, efficient procedure for determining the rights status of books first published between 1923-1968.

Please complete an analysis of the various strategies taken by other organizations in determining the copyright status of published U.S. books. Develop a legally sufficient and efficient procedure that Library reference staff could follow to clear books from this period for digitization and online distribution. Document the approach in an easily understood and visually engaging manner that is suitable for publishing on the Web.

The final written procedure should include a logical diagram mapping the various tasks, questions answered, and resources consulted for reaching a conclusion on a work's status. Please include recommendations on any subsets of the overall corpus that represent the highest likelihood of being in the public domain. Emphasis is on what can be done efficiently, rather than on the many exceptions that may apply to relatively small subsets.

Retail and Licensing Opportunities for the Library

Retail is one facet of the overall visitor experience for the Library. While the Library has a physical and online retail shop, there has never been a comprehensive review of how retail fits into the visitor experience, how it relates to the overall mission of the Library and no real consideration of other types of retail opportunities, including licensing reproductions of materials in the Library collections.

I would like you to undertake a comprehensive study that identifies new and sustainable retail opportunities for the Library and examines best practices of retail operations in a variety of cultural institutions. This should include background and recommendations for:

- Expanding or redesigning the Library electronic point of sale systems
- Designing products that are relevant, educational and reflective of the collections of the Library
- Connecting products with exhibitions
- Identifying best practices for social networks and third-party websites which can help increase online sales
- Partnering with other cultural organizations
- Identifying licensing opportunities for the Library that would generate income and enhance the Library brand

Also, please examine the policies and practices of at least eight major cultural institutions which are using retail and identify practices which might be appropriate for the Library.

Finally, investigate and analyze a potential project based upon the Library's goal of increasing public knowledge of the Library's incredible literary collections. As an example, the British Library launched a hugely successful "crime classics" series in 2012 that revives forgotten classics from early 20th century British crime fiction. Your analysis should focus on the U.S. copyright law implications for the use of American materials in the Library's collection and how the Library can best proceed with a similar project.

Please consult with David Mao about deadlines. Each week, please provide David and me with a report on the activities you've undertaken on these assignments. If you need research assistance, contact David or me before tasking anyone. I do not anticipate that this assignment will require any communications with Members of Congress or congressional staff. I am arranging suitable office space for you and will arrange for you to complete the move from your current office to the new space by Oct. 31, 2016.

Please let me know if you have any questions about these assignments.

cc:

David Mao, Deputy Librarian of Congress