

Reservation, Washington; and Upper Skagit Indian Tribe of Washington.

In consultation with the Puyallup Tribe of the Puyallup Reservation, Washington, the museum has learned that there were many Puyallup villages along Puget Sound prior to treaty times. Additionally, the territory of the Puyallup Tribe of the Puyallup Reservation, Washington (within Pierce County) extends to the Islands and waterways of Puget Sound, up to present day Steilacoom, out to present day Gig Harbor, embracing the cities of Tacoma, Fife, Milton, Puyallup, Edgewood, Sumner, and up to the top of Mount Rainier (and King County.) The Puyallup also occupied seasonal encampments in the Puget Sound area.

Based on lack of information about the removal from Puget Sound, Mr. Turner's and his heirs' failure to remove the human remains from the museum, and the fact that the Museum of Natural History has had stewardship of them since 1913, the museum considers the human remains abandoned and has decided to proceed as the responsible entity under NAGPRA.

Officials of the Museum of Natural History and Planetarium, Roger Williams Park have determined that, pursuant to 25 U.S.C. 3001 (9–10), the human remains described above represent the physical remains of one individual of Native American ancestry. Officials of the Museum of Natural History and Planetarium, Roger Williams Park also have determined that, pursuant to 25 U.S.C. 3001 (2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and the Muckleshoot Indian Tribe of the Muckleshoot Reservation, Washington; Nisqually Indian Tribe of the Nisqually Reservation, Washington; Port Gamble Indian Tribe of the Port Gamble Reservation, Washington; Puyallup Tribe of the Puyallup Reservation, Washington; Sauk-Suiattle Indian Tribe of Washington; Skokomish Indian Tribe of the Skokomish Reservation, Washington; Squaxin Island Tribe of the Squaxin Island Reservation, Washington; Stillaguamish Tribe of Washington; Suquamish Indian Tribe of the Port Madison Reservation, Washington; Swinomish Indians of the Swinomish Reservation, Washington; Tulalip Tribes of the Tulalip Reservation, Washington; and Upper Skagit Indian Tribe of Washington.

Representatives of any other Indian tribe that believes itself to be culturally affiliated with the human remains should contact Marilyn Massaro, Curator of Collections, Museum of Natural History and Planetarium, Roger

Williams Park, Providence, RI 02907, telephone (401)785–9457, ext. 248, before November 12, 2009. Repatriation of the human remains to the Muckleshoot Indian Tribe of the Muckleshoot Reservation, Washington; Nisqually Indian Tribe of the Nisqually Reservation, Washington; Port Gamble Indian Tribe of the Port Gamble Reservation, Washington; Puyallup Tribe of the Puyallup Reservation, Washington; Sauk-Suiattle Indian Tribe of Washington; Skokomish Indian Tribe of the Skokomish Reservation, Washington; Squaxin Island Tribe of the Squaxin Island Reservation, Washington; Stillaguamish Tribe of Washington; Suquamish Indian Tribe of the Port Madison Reservation, Washington; Swinomish Indians of the Swinomish Reservation, Washington; Tulalip Tribes of the Tulalip Reservation, Washington; and Upper Skagit Indian Tribe of Washington may proceed after that date if no additional claimants come forward.

The Museum of Natural History and Planetarium, Roger Williams Park is responsible for notifying the Muckleshoot Indian Tribe of the Muckleshoot Reservation, Washington; Nisqually Indian Tribe of the Nisqually Reservation, Washington; Port Gamble Indian Tribe of the Port Gamble Reservation, Washington; Puyallup Tribe of the Puyallup Reservation, Washington; Sauk-Suiattle Indian Tribe of Washington; Skokomish Indian Tribe of the Skokomish Reservation, Washington; Squaxin Island Tribe of the Squaxin Island Reservation, Washington; Stillaguamish Tribe of Washington; Suquamish Indian Tribe of the Port Madison Reservation, Washington; Swinomish Indians of the Swinomish Reservation, Washington; Tulalip Tribes of the Tulalip Reservation, Washington; and Upper Skagit Indian Tribe of Washington that this notice has been published.

Dated: September 21, 2009

**Sherry Hutt,**

*Manager, National NAGPRA Program.*

[FR Doc. E9–24558 Filed 10–9–09; 8:45 am]

**BILLING CODE 4312–50–S**

## LIBRARY OF CONGRESS

### Copyright Office

#### Copyright Office Notice of Inquiry and Request for Comments on the Topic of Facilitating Access to Copyrighted Works for the Blind or Other Persons With Disabilities

**AGENCY:** Copyright Office, Library of Congress.

**ACTION:** Notice of inquiry and request for comments.

**SUMMARY:** The United States Copyright Office (Copyright Office) and the United States Patent and Trademark Office (USPTO) seek comment on possible solutions to enhance the accessibility of copyrighted works for the benefit of the blind or other persons with disabilities,<sup>1</sup> including specifically the objectives and text of a draft treaty prepared under the auspices of the World Blind Union and proposed formally at the May 2009 session of the World Intellectual Property Organization's Standing Committee on Copyright and Related Rights. Interested parties are invited to submit comments on the topics outlined in the supplementary information section of this notice.

**DATES:** Initial comments on the Notice of Inquiry and Request for Comments are due on or before November 13, 2009. Reply comments are due on or before December 4, 2009.

**ADDRESSES:** Notice of Inquiry and Request for Comments: The Copyright Office and USPTO strongly prefer that comments be submitted electronically. A comment page containing a comment form will be posted on the Copyright Office web site at [www.copyright.gov/docs/sccr/comments](http://www.copyright.gov/docs/sccr/comments) and will be activated approximately two weeks prior to the comment deadline. The web site interface will allow commenters to enter required information into specified fields and upload comments as an attachment. In order to be accessible to visually impaired persons, all comments must be uploaded in a single file in either the Adobe Portable Document File (PDF) format that contains searchable, accessible text (not an image); Microsoft Word; WordPerfect; Rich Text Format (RTF); or ASCII text file format (not a scanned document). The maximum file size is 6 megabytes (MB). The uploaded comment must include the name of the commenter. A browse button will facilitate submission of the completed form to the Copyright Office. All comments from this proceeding will be posted publicly on the Copyright Office web site. The name and organization of the commenter from the comment form

<sup>1</sup> Various terms are used formally and informally throughout the world. When inquiring about experiences within the United States, the term used in this Notice of Inquiry is that which appears in U.S. copyright law. See 17 U.S.C. 121(d)(2). There, the term "blind or other persons with disabilities" is defined to include individuals who are eligible or who may qualify to receive books and other publications in specialized formats in accordance with the Act entitled "An Act to provide books for the adult blind," approved March 3, 1931 (2 U.S.C. 135a; 46 Stat. 1487).

will be posted together with the entire attached comment document. Other information from the comment form will not be posted, but note that if the same information is included in the attached document it will be available on the Copyright Office web site as part of the attachment. If electronic submission of comments is not feasible, please contact the Copyright Office at 202-707-1027 for special instructions.

**FOR FURTHER INFORMATION CONTACT:**

Maria Pallante, Associate Register, Policy and International Affairs, or Michele Woods, Senior Counsel for Policy and International Affairs, by telephone at 202-707-1027 or by electronic mail at mpall@loc.gov or mwoo@loc.gov.

**SUPPLEMENTARY INFORMATION:**

**Background:** The United States is a Member State of the World Intellectual Property Organization (WIPO) and an active member of the Standing Committee on Copyright and Related Rights (SCCR). An on-going focus of the SCCR is the topic of limitations and exceptions to exclusive rights, including limitations and exceptions for visually impaired persons. At its seventeenth session (November 2008), the SCCR stressed the importance of dealing “without delay and with appropriate deliberation” with the issue of facilitating and enhancing access to protected works.<sup>2</sup> At the most recent (eighteenth) session of the SCCR (May 2009), the delegations of Brazil, Ecuador, and Paraguay formally introduced a proposal for a new treaty for the benefit of blind, visually impaired, and other reading disabled persons, based on text that was prepared under the auspices of the World Blind Union (WBU).<sup>3</sup>

The treaty proposal would require the implementation of prescribed copyright exceptions and limitations, among other provisions. The stated purpose of the proposal is to “provide the necessary minimum flexibilities in copyright laws that are needed to ensure formats that are accessible for persons who are blind, have low vision, or have other disabilities in reading text, in order to support their full and effective participation in society on an equal basis with others, and to ensure the

opportunity to develop and utilize their creative, artistic and intellectual potential, not only for their own benefit, but also for the enrichment of society.”

Most notably, the proposal would permit the cross-border import, export and qualified distribution of copyrighted works in accessible formats without the permission of the rights holders, including to countries that presently lack, in their national laws, a specific copyright exception or other legal framework for serving the visually impaired. The proposal would also permit the circumvention of technological protection measures for the purpose of making works accessible. See Proposal by Brazil, Ecuador and Paraguay, Relating to Limitations and Exceptions: Treaty Proposed by the World Blind Union (WBU), submitted at the World Intellectual Property Organization Standing Committee on Copyright and Related Rights (SCCR), 18th Session, May 25–29, 2009 (available at [http://www.wipo.int/meetings/en/doc\\_details.jsp?doc\\_id=122732](http://www.wipo.int/meetings/en/doc_details.jsp?doc_id=122732)).

The United States has long been a leader in the area of providing popular books, textbooks, magazines, newspapers and other materials to the blind, through the services of several trusted organizations, including the Library of Congress (National Library Service for the Blind and Physically Disabled), American Printing House for the Blind, Recording for the Blind & Dyslexic, and Bookshare.<sup>4</sup> A statutory exception in the Copyright Act (Title 17), the so-called “Chafee Amendment,” permits these and other authorized entities to reproduce and distribute certain literary works in specialized formats exclusively for use by blind or other persons with disabilities. In the context of education, the Chafee Amendment operates jointly with the Individual with Disabilities Education Act (IDEA) of 2004, which allows publishers to create and distribute print instructional materials for elementary and secondary schools in a file format known as “NIMAS” (the National Instructional Materials Accessibility Standard). Another U.S. organization, the DAISY Consortium, has worked globally to establish the

technical standards that are necessary to ensure interoperability of file formats and actual access by the blind, not only with respect to works made pursuant to copyright exceptions but also for works sold to visually impaired persons on the open market. More information on the DAISY Consortium is available at <http://www.daisy.org/>.

In a floor statement at the eighteenth session of the SCCR (May 2009), the delegation of the United States affirmed its commitment to working jointly with stakeholders to find “timely, effective and practical solutions” to further enhance the accessibility of protected works, taking into account the complex and interrelated issues of copyright law, business models, technology and human and financial resources. See Statement on Improving Accessibility to Copyrighted Works for Blind and Visually Impaired Persons, as Delivered by the United States of America before the World Intellectual Property Organization Standing Committee on Copyright and Related Rights (SCCR), 18th Session, May 26, 2009 (available at <http://www.copyright.gov/docs/sccr/statement/us-intervention.pdf>). The United States stressed the importance of national consultations as a critical first step to addressing specific proposals within the SCCR. The United States reported at length on its formal and informal consultations with copyright owners, representatives of the blind, and the public, including a notice of inquiry (through which the public submitted written comments and reply comments) and a comprehensive public meeting that preceded the SCCR session. See Notice of Inquiry and Request for Comments; Notice of Public Meeting, 74 FR 13268 (Mar. 26, 2009); see also <http://www.copyright.gov/docs/sccr/>.

To date, the U.S. consultations have demonstrated that although there are willing buyers and sellers of accessible works, concerns over rights clearances, downstream infringement, and high costs prevent the marketplace of accessible works from growing to its full potential. Additionally, the United States has learned that improved implementation of existing legal and regulatory provisions may be needed in order to maximize the accessibility of works to the blind and other persons with disabilities. But there are many challenges that do not pose questions of law. For example, better coordination between trusted organizations, educational institutions, and publishers could reduce duplication of efforts and lead to a better variety of titles in accessible formats. Respect for technical standards would improve the

<sup>2</sup> See “Conclusions of the 17th Session of the SCCR,” November 3–7, 2008, at [http://www.wipo.int/edocs/mdocs/copyright/en/sccr\\_17/sccr\\_17\\_www\\_112533.pdf](http://www.wipo.int/edocs/mdocs/copyright/en/sccr_17/sccr_17_www_112533.pdf) (last visited on Oct. 1, 2009).

<sup>3</sup> See “Conclusions of the 18th Session of the SCCR,” May 25–29, 2009, at [http://www.wipo.int/edocs/mdocs/copyright/en/sccr\\_18/sccr\\_18\\_conclusions.doc](http://www.wipo.int/edocs/mdocs/copyright/en/sccr_18/sccr_18_conclusions.doc) (last visited on Oct. 1, 2009).

<sup>4</sup> The United States signed the United Nations Convention on the Rights of Persons with Disabilities on July 30, 2009. The next step is for the President to transmit a request to the Senate for advice and consent to ratification, accompanied by a treaty transmittal package. Article 30 of the Convention requires that “States Parties recognize the right of persons with disabilities to take part on an equal basis with others in cultural life, and...take all appropriate measures to ensure that persons with disabilities...[e]njoy access to cultural materials in accessible formats.”

interoperability of file formats and improve accessibility to hardware, including for refreshable Braille and text-to-speech capabilities. Clearer practices could help assuage delays in providing time-sensitive materials to some visually impaired students, particularly in higher education. Increased funding would help all of the above.

At the international level, the WIPO Secretariat has endeavored to address practical obstacles to accessibility by creating an exploratory partnership between publishers and visually impaired persons, known as the WIPO Stakeholders' Platform. The Stakeholders' Platform is exploring the "concrete needs, concerns, and suggested approaches" of facilitating access. For example, one subcommittee has been working on a series of private sector guidelines and pilot projects related to trusted intermediaries and cross-border access for registered, qualified users. More information may be found at [http://www.visionip.org/stakeholders/en/trusted\\_intermediary\\_guidelines.html](http://www.visionip.org/stakeholders/en/trusted_intermediary_guidelines.html).

At the next (nineteenth) session of the SCCR (December 14–18, 2009), the United States is committed to discussing the treaty proposal, as well as other relevant solutions.

Documents from SCCR meetings, including documents regarding copyright limitations and exceptions for the blind and other persons with disabilities, can be found by starting at [http://www.wipo.int/meetings/en/topic.jsp?group\\_id=62](http://www.wipo.int/meetings/en/topic.jsp?group_id=62) and following the link to information for each specific meeting. A study on copyright limitations and exceptions for the visually impaired can be found at [http://www.wipo.int/meetings/en/doc\\_details.jsp?doc\\_id=75696](http://www.wipo.int/meetings/en/doc_details.jsp?doc_id=75696). The treaty proposal is available at [http://www.wipo.int/meetings/en/doc\\_details.jsp?doc\\_id=122732](http://www.wipo.int/meetings/en/doc_details.jsp?doc_id=122732).

**Subjects of Inquiry:** At this time, in order to allow further opportunity for interested persons to provide their views, the Copyright Office and the USPTO are seeking comments on possible solutions, both legal and practical, for enhancing the accessibility of copyrighted works for the benefit of visually impaired persons. In particular, the Copyright Office and USPTO are interested in learning about 1) how the treaty proposal would interact with existing U.S. law; 2) how the treaty proposal would interact with existing international obligations of the U.S.; 3) the possible benefits of or concerns about the treaty proposal, including with regard to the objectives of the

treaty proposal, how those objectives could lead to improved access for the blind and visually impaired, and any concerns about the implementation of the proposed treaty provisions in the U.S. or abroad; and 4) other possible courses of action that would facilitate access by "blind, visually impaired, and other reading disabled persons."

1. *How would the treaty proposal interact with United States law under Title 17 or otherwise?* The Copyright Office and the USPTO seek to learn interested parties' views on how the treaty proposal compares to U.S. law under Title 17, or any other statutory or regulatory provisions that might be affected. How consistent is the treaty proposal with current U.S. law? If the treaty proposal is adopted, would any changes to U.S. law be required in order to implement its provisions? Please reference with as much specificity as possible any U.S. statutes, regulations, or other provisions that should be considered in a review of the treaty proposal's implications on U.S. law.

2. *How would the treaty proposal interact with the international obligations of the United States?* Please comment on whether, and how, the treaty proposal would affect the existing multilateral and bilateral agreements of the United States. Please reference with as much specificity as possible the provisions of any treaties, conventions, agreements or other instruments that should be considered, as well as any conclusions or analyses that might be instructive.

3. *What benefits or concerns would the treaty proposal create?* Please comment generally on the objectives of the treaty proposal, and how such objectives could facilitate access for the blind and visually impaired. Is the treaty proposal likely to meet its objectives? Would there be any legal or practical impediments to implementing the treaty proposal in the United States? What issues should the United States consider with respect to application of the treaty proposal in foreign countries?

4. *Other possible courses of action that would facilitate access by "blind, visually impaired, and other reading disabled persons."* Please comment on any additional, possible methods of improving accessibility about which the Copyright Office and the USPTO should be aware, including possible roles for WIPO, the U.S. government, and the commercial and noncommercial private sectors.

Dated: October 7, 2009.

**Maria Pallante,**

*Associate Register for Policy and International Affairs, U.S. Copyright Office.*

[FR Doc. E9–24539 Filed 10–9–09; 8:45 am]

**BILLING CODE 1410–30–S**

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## **NATIONAL FOUNDATION FOR THE ARTS AND THE HUMANITIES**

### **National Endowment for the Arts; National Council on the Arts 168th Meeting**

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the National Council on the Arts will be held on October 30, 2009 in Room M–09 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

This meeting, from 9 a.m. to 11:30 p.m. (ending time is approximate), will be open to the public on a space available basis. After opening remarks and announcements, the meeting will include Government Affairs and budget updates. This will be followed by presentations on the legacy of Merce Cunningham. Presenters will include Suzanne Carbonneau (critic and director of the *NEA Arts Journalism* project at the American Dance Festival), Trevor Carlson (former dancer and executive director of the Cunningham Dance Company), and Elizabeth Streb (dancer and choreographer). After the presentations the Council will review and vote on applications and guidelines, and will adjourn following concluding remarks.

If, in the course of the open session discussion, it becomes necessary for the Council to discuss non-public commercial or financial information of intrinsic value, the Council will go into closed session pursuant to subsection (c)(4) of the Government in the Sunshine Act, 5 U.S.C. 552b. Additionally, discussion concerning purely personal information about individuals, submitted with grant applications, such as personal biographical and salary data or medical information, may be conducted by the Council in closed session in accordance with subsection (c)(6) of 5 U.S.C. 552b.

Any interested persons may attend, as observers, Council discussions and reviews that are open to the public. If you need special accommodations due to a disability, please contact the Office of AccessAbility, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682–