
**A CELEBRATION OF THE COPYRIGHT LEGACY OF REGISTER
MARYBETH PETERS**

Organized by MARIA PALLANTE AND REGAN SMITH

Held: March 1, 2023 on Zoom

The Copyright Society, in coordination with the Copyright Office, presents a celebration of the copyright legacy of Register Marybeth Peters. Featuring colleagues and friends of the distinguished Register.

With Tributes by:

Fritz Attaway
Jon Baumgarten
June Besek
Bob Brauneis
David Carson
Jacqueline Charlesworth
Casey Chisick
Richard Dannay
Laura Gasaway
Mitch Glazier
Paul Goldstein
Francis Gurry
David Israelite
Joe Keeley

Art Levine
David Nimmer
Maria Pallante
Shira Perlmutter
Mary Rasenberger
Catie Rowland
Eric Schwartz
Jule Sigall
Kate Spelman
Regan Smith
Winston Tabb
Karyn Temple
Nancy Wolff
Michele Woods

INTRODUCTION

On March 1, 2023, the Copyright Office and the Copyright Society came together to celebrate Marybeth Peters' life. Eric Schwartz called it "Marybeth Fest." And indeed, from the transcript below, you can see how impactful and loved Marybeth Peters was.

After a long life in copyright, Marybeth Peters passed away on September 29, 2022, at the age of 83.¹ She served as the 11th Register of Copyrights from 1994 to 2010. But these brief biological facts tell none of the full story of Marybeth. Upon her retirement, the Journal of the Copyright Society had paid tribute to her, with an outpouring of love and remembrances of what she had done (and how she had influenced, inspired, and mentored) in copyright throughout her career.² Now, the Copyright Society and the Copyright Office gathered to pay tribute to Marybeth once again.

The Journal is proud to publish the transcript. We've added footnotes to contextualize and help the reader. In doing so, we quickly recognize the enormous impact Marybeth made in the field of copyright. For Copyright Society members and those who also knew her, we hope it brings back memories. And for those that did not, we hope this gives you a glimpse into the behind-the-scenes and very human element that is our copyright system.

Gathered that day was a room filled with the powerhouses of copyright. What is amazing as you read it, is not the professional accomplishment, but the personal stories and remembrances of their time with Marybeth. The tribute is like a painting, a glimpse of a life well-lived, and the impact both professionally and personally on so many lives, and copyright too.

This tribute was conducted by Zoom on March 1, 2023. Note the journal's editorial team added footnotes to help with references that the contributors spoke to. These are meant as resources and not directly supplied by the contributors.³

The Journal is proud to publish the transcript and grateful to the tribute organizers: Maria Pallante, who served on Marybeth's executive team and succeeded her as Register of Copyrights, and Regan Smith, who chairs the DC Chapter of the Copyright Society and is a former Copyright Office general counsel.

- Fred Yen and Elizabeth Townsend Gard, Editors-in-Chief

¹ Marybeth Peters, June 12, 1939-September 29, 2022.

² See 58 J. Copyright Society 1 (2010).

³ Special thanks to the Tulane law students who worked on this transcript including Tess Bradley (J.D. expected 2025), Kristin Ivey (J.D. expected 2026), Veronica Catanese (J.D. expected 2026), Brijan Kana (J.D. expected 2026), and Rachel Lewis (J.D. expected 2026).

THE TRANSCRIPT

Regan Smith:⁴ Welcome, everybody. I think we're going to get started. My name is Regan Smith. As the Copyright Society's DC chapter co-chair, I'm delighted and honored to open up today's tribute to the life and legacy of distinguished Register of Copyrights, Marybeth Peters. Today's event is a joint program by the Copyright Society in conjunction with the Copyright Office of the United States. And before we begin, I'd like to recognize, honor, and sincerely thank our program co-host, former register Maria Pallante, who really has been the driving force in bringing everyone together for today's celebration.⁵

Maria and I will facilitate remarks from so many who knew Register Peters as well and who will speak to her incredible professional and personal impact. The remarks will be recorded and intended to be included in an upcoming volume of the journal of the Copyright Society of the USA. It is really a testament to Marybeth's indelible impact on the global copyright community that so many have lined up to share their memories of her today.

And I know we will still not come close to capturing her contributions as a forceful thinker in copyright law and policy, a cherished personal friend to many, and an inspiring leader to still many others. Maria, is there anything you would like to say, or shall we get started? Okay. As we get on, a brief note about format, to ensure our program runs smoothly. We have a lot of speakers here today. We will ask each speaker to pass the baton to the next speaker, if they remember - but Maria or I will be here to facilitate if there's any issues and [to] please each introduce themselves briefly.

So, if we could have those who are in the first set of speakers turn their cameras on and be ready to participate in the first session. So, this will be Casey,⁶ Shira,⁷ David Carson,⁸ Maria,⁹ Francis Gurry,¹⁰ Karyn,¹¹ and Joe.¹² If you forget your order, don't worry. We'll give you a little nudge. But to start, we're very excited to turn this over to Casey Chisick, the President of the Copyright Society.

⁴ Regan Smith serves as the Copyright Society's DC co-chair. Smith Law Professor at George Washington University. She is also Senior Vice President and General Counsel of News Media Alliance. Smith is the former Head of Public Policy in Spotify's Government Affairs Group. *Reagan A. Smith*, THE COPYRIGHT SOCIETY, <https://copyrightsociety.org/bio/regan-a-smith> (last visited June 17, 2024).

⁵ See Maria Pallante *infra* note 27.

⁶ See Casey Chisick *infra* note 13.

⁷ See Shira Perlmutter *infra* note 15.

⁸ See David Carson *infra* note 20.

⁹ See Maria Pallante *infra* note 27.

¹⁰ See Francis Gurry *infra* note 42.

¹¹ See Karyn Temple *infra* note 47.

¹² See Joe Keeley *infra* note 50.

Casey Chisick:¹³ Thanks, Regan, and on behalf of the Copyright Society, I want to take this opportunity to welcome everyone to this special tribute to the life and work of our dear friend, Marybeth. Marybeth enjoyed a distinguished career in copyright law that spanned more than four decades and that culminated in more than 16 years as the 11th US Register of Copyrights. She retired from that position with great distinction at the end of 2010.

Others here are in a much better position than I am to discuss her innumerable contributions to U.S. copyright law, and I know they'll do exactly that today. But, as an outsider looking in all the way from Canada, I can tell you that her influence extended much broader than just the United States. Marybeth was a giant of the copyright world, full stop. Her advice and insight helped shape copyright law in practice the world over.

At the Copyright Society, we pride ourselves on the community we create for and with our members, and Marybeth was a huge part of that community. She was a mainstay of our national meetings. And her annual address, The View from the Copyright Office, was always hugely informative and reliably entertaining.¹⁴ It was always standing room only when Marybeth got up to speak. And her participation didn't end there. She would listen attentively to every speaker and panel with that distinctive laugh punctuating many a presentation. Her warm smile would light up the room.

She seemed to take genuine joy in every word that was said at those meetings. And, at receptions and dinners and in the hallways between sessions, she could always be in animated conversation with anyone and everyone who wanted to spend just a little time with her. And the time Marybeth spent with people was never perfunctory. She had a genuine interest not just in copyright law but in copyright lawyers. In fact, I sometimes have the impression that Marybeth thought everyone should be a copyright lawyer.

I don't think I was alone in that impression either. Marybeth wanted her legacy to reflect that commitment to the copyright community. And to help make sure of that, she left a transformative bequest to the Copyright Society when she passed. We plan to put that gift to good use, including by helping support and encourage the next generation of copyright lawyers around the world. I really believe she would have wanted it that way.

¹³ Casey Chisick served as President for the Copyright Society, June 2022-June 2024. Chisick is a Partner at Cassels in Toronto and acts as co-chair for the firm's Intellectual Property and Sports & Entertainment practices. He has previously worked as a law professor, jazz promoter, and musician. Chisick is certified as a Certified Specialist in Intellectual Property by the Law Society of Upper Canada. *Casey M. Chisick*, THE COPYRIGHT SOCIETY, <https://copyrightsociety.org/bio/casey-m-chisick/> (last visited June 17, 2024).

¹⁴ The View from the U.S. Copyright Office is an annual event put on by the Copyright Society to update IP professionals on recent developments and upcoming initiatives. Generally, the speakers are Registers or Associate Registers.

Marybeth was a wise and dedicated mentor, an inspiring role model, and a personal friend to so many of us. I was thrilled to have the opportunity to get to know her just a little bit over the years with the Copyright Society. We miss her, and we'll always cherish her memory. And we're so thrilled to have the opportunity to help pay tribute to her today. And with that, I'm honored to introduce to you the 14th Register of Copyrights, Shira Perlmutter.

Shira Perlmutter:¹⁵ Thank you so much, Casey. I have to start by saying the outpouring of affection and respect for Marybeth is obvious from this lineup of speakers. It's truly remarkable. I don't think I've ever seen quite this collection before. And I know that each of us will be talking about Marybeth's unmatched professional expertise and also about her wonderful personal qualities, not to mention inimitable shriek of joy that was her laughter.

Most of us never get to hear these types of tributes in our lifetimes, but Marybeth was lucky in that respect because the Journal of the Copyright Society published an issue honoring her on the occasion of her retirement in 2010, with over 100 pages from a long list of copyright luminaries.¹⁶ And I highly recommend going back and reading them. They provide a real sense of who Marybeth was and recreate vividly many amazing moments that people shared with her.

In the few moments I have today, I wanted to provide the particular perspective of someone who is today privileged to sit in Marybeth's former office and follow her as Register of Copyrights. Marybeth was, of course, the 11th Register but only the second woman. She followed in the footsteps of Barbara Ringer, who broke that glass ceiling, although only after she had to sue to obtain the position.¹⁷ It was really a different world at the time. And Barbara was my opera companion toward the end of her career when she had returned to the Copyright Office after her initial retirement. And I remember very well her pleasure when she told me that Marybeth had been selected as the next Register.

¹⁵ Shira Perlmutter serves as the Register of Copyrights and Director of the U.S. Copyright Office, a position to which she was appointed to in October 2020. Prior to her appointment, Perlmutter served as Chief Policy Officer and Director for International Affairs at the United States Patent and Trademark Office. Perlmutter has also previously worked for the International Federation of the Phonographic Industry, Time Warner, the World Intellectual Property Organization, and as a law professor. *Shira Perlmutter*, THE COPYRIGHT SOCIETY, <https://copyrightsociety.org/bio/shira-perlmutter-2/> (last visited June 17, 2024).

¹⁶ See generally 58 J. COPYRIGHT SOC'Y 1, 1-105 (Stacey Dogan & F. Jay Dougherty eds., 2010).

¹⁷ In 1971 the Librarian of Congress passed over Barbara Ringer for the position of Register of Copyrights in favor of a less-qualified man. See Alison Hall, *Barbara Ringer: Beyond the* ©, LIBRARY OF CONGRESS BLOGS (Nov. 19, 2019), <https://blogs.loc.gov/copyright/2019/11/barbara-ringer-anniversary/>. Ringer sued the Library of Congress for discrimination on the basis of sex and won her suit in 1973. *Id.* In 1973, Ringer was awarded her position as the 8th, and first female, Register of Copyrights. *Id.* For more information on Barbara Ringer see *infra* note 148.

Barbara was a teacher, a mentor and a friend for Marybeth, who then carried forward that role for me and for Maria and for Karyn when each of us came to the Office. What did Marybeth inherit from Barbara? An international perspective, a balanced approach to the copyright system, a concern for the less powerful, and uncompromising standards of excellence.

What did she add to that inheritance? She added her own trademark warmth, and ebullience, and approachability, and empathy. It was that combination that drew me into the policy world, and then government service, after I first encountered Marybeth in the late 1980s when I was a young lawyer practicing in New York City. It's that combination that continues to inspire me when I come into work every day.

Now, Marybeth earned a place in history as the Register who shepherded the Office and the copyright system into the digital age. She oversaw the introduction of the first-ever electronic registration system.¹⁸ And I was fortunate to work for her while the United States took its initial steps to address the copyright challenges that were posed by the new technologies. It was an exciting time. We were tremendously busy crafting legislative drafts and treaty proposals, preparing congressional testimony and reports, and all of that laid the groundwork for the 1996 WIPO Internet Treaties and the Digital Millennium Copyright Act.¹⁹

With Marybeth at the helm in the midst of all of this, we safeguarded the Office's long-standing role in policy and international affairs through an amendment to the Copyright Act.

Marybeth met each crisis that arose with calm, humor, and equanimity. And she shared some valuable wisdom that I've drawn on ever since. Just keep

¹⁸ See generally U.S. Copyright Office Releases New Technology to Process Applications Online: eCO and New "Form CO" with 2-D Barcode Technology Goes Public July 1, LIBRARY OF CONGRESS (2008), <https://www.loc.gov/item/prn-08-115/> (last visited June 17, 2024).

¹⁹ In 1996 the World Intellectual Property Organization (WIPO) created the WIPO Copyright Treaty and the WIPO Performance and Phonogram Treaty (collectively known as the "Internet Treaties") to establish international standards "aimed at preventing unauthorized access to and use of creative works on the Internet or other digital networks." *WIPO Internet Treaties*, WORLD INTELLECTUAL PROPERTY ORGANIZATION, https://www.wipo.int/copyright/en/activities/internet_treaties.html (last visited June 17, 2024). The purpose of these treaties was to update and supplement other major treaties on copyright in order to best respond to new technological developments, such as the distribution of protected materials over digital spaces. *Id.* This purpose led to the treaties being referred to as the "Internet Treaties." *Id.* The Digital Millennium Copyright Act (DMCA) was passed in 1998 by Congress to amend copyright law in wake of the digital age. *The Digital Millennium Copyright Act*, U.S. COPYRIGHT OFFICE, <https://www.copyright.gov/dmca/> (last visited June 18, 2024). The main purposes of the DMCA was to establish protections for online service providers in case their users engaged in copyright infringement, provide protections for copyright owners whose digital works were accessed unauthorized, and to make it unlawful to provide false copyright management information. *Id.*

producing excellent work, and people will come to you for more. And I'm proud to say that to this day, the Copyright Office follows her advice. With that, I will turn the virtual mic over to David Carson.

David Carson:²⁰ Thanks, Shira. I was Marybeth's General Counsel for eleven years and her Associate Register for Policy and International Affairs for two. So, I was fortunate enough to be able to work closely with her for most of the time she was Register, apart from the first three years. I was looking at the list of attendees yesterday, and it struck me that most of you probably knew her, or at least have met her.

And many of you could easily have been added to the list of speakers if we only had a few more hours, but I'd like to single out a couple of you. Judy Saffer, you were one of Marybeth's favorite people and a longtime friend from the Copyright Society and a former Copyright Society president.²¹ Roberta Bren, you were more than a professional colleague.²² You continued to keep in touch with Marybeth after her retirement, and she often told me about her visits from you and Beth, which really cheered her up. I could go on and talk about a lot of other people who are here, but I'm here to talk about Marybeth. So, that's what I'm going to do.

Working for Marybeth was undoubtedly the greatest professional experience I've ever had, but it was also immensely rewarding on a personal level. She was my supervisor, but she treated me like a colleague, and she was a friend. I first

²⁰ David Carson serves as a member of the Copyright Claims Board. He previously served at the Copyright Office as General Counsel for thirteen years and Associate Register for Policy and International Affairs for two years. More recently, he served as Senior Counsel and Director of the Copyright Policy Team in the Office of Policy and International Affairs at the U.S. Patent and Trademark Office and as Executive Vice President for Global Legal Policy at the International Federation of the Phonographic Industry. *About the Copyright Claims Board*, COPYRIGHT CLAIMS BOARD, <https://ccb.gov/about/> (last visited June 17, 2024).

²¹ Judith 'Judy' Saffer served as the President of the Copyright Society from 1996 through 1998. Throughout her career, Saffer held senior positions at the American Society of Composers, Authors and Publishers and Broadcast Music Inc., and previously served as the 100th President of the American Intellectual Property Law Association. As a result of her impressive career the U.S. State Department asked Saffer to speak about IP piracy in various countries around the world. *Judith M. Saffer*, THE COPYRIGHT SOCIETY, <https://copyrightsociety.org/bio/judith-m-saffer/> (last visited June 18, 2024).

²² Roberta Bren is a leading professional in the world of trademark, copyright, and other niche IP sectors, such as trade dress and unfair competition. See Roberta S. Bren, MUNCY, GEISSLER, OLDS & LOWE, <https://www.mg-ip.com/mg-ip-professionals/roberta-s-bren/> (last visited June 27, 2024). Starting her illustrious career off as an Examiner at the USPTO, she has provided practical advice to clients and frequently lectured on topical issues in the field for over 25 years. *Id.* Additionally, she is known for co-authoring *A Legal Strategist's Guide to TRADEMARK TRIAL AND APPEAL BOARD PRACTICE*. *Id.* This is a revered guide to navigating the difficult trademark terrain through practical insights and commentary, even including a checklist for each stage of the Board Proceedings regarding *what* a lawyer should consider. *Id.*

met her 32 years ago in Dayton, Ohio, of all places, at a conference on protection of databases where I was speaking.²³ Marybeth was also on the program, and I had already heard wonderful things about her from my partners including Richard Dannay²⁴ and June Besek,²⁵ who you'll hear from soon.

At the time, she was a policy planning advisor to the Register of Copyrights. That sounded pretty impressive to me, but it wasn't her title that got my attention. What did impress me was that not only did she seem to be a very knowledgeable, dedicated public servant and a great public speaker, but she was also a very warm, welcoming person with a great sense of humor who didn't take herself too seriously. I was a mere nobody attending a conference at which just about everyone except me seemed to know everyone else except me, but Marybeth immediately welcomed me into the fold.

And although I had no right to think so at that point, I immediately felt that I had found a friend. I suspect that those of you who knew or met her felt the same way. It's no exaggeration to say that Marybeth was almost universally beloved in the copyright world. She was also an advocate for copyright and, in particular, for authors.

At another tribute to Marybeth 17 years ago, celebrating 40 years of her service at the Copyright Office, Jack Valenti said that when you go before Congress and testify on copyright, you just have to hope and pray that Marybeth isn't going to ruin it all by disagreeing with you and making you feel like she just stuck a hot poker up your behind.²⁶ Mr. Valenti knew what he was talking about.

²³ See *News Release*, THE UNIVERSITY OF DAYTON, COPYRIGHT PROTECTIONS SYMPOSIUM SPONSORED BY UD LAW SCHOOL (Oct. 21, 1991).

²⁴ Richard Dannay is Counsel at Cowan, Liebowitz, & Latman, P.C. focusing on copyright, publishing, trademark, libel, privacy, publicity, and related matters. Dannay served as President of the Copyright Society of the U.S.A from 1984-1986, and has been a Honorary Trustee since 1986. *Richard Dannay*, THE COPYRIGHT SOCIETY, <https://copyrightsociety.org/bio/richard-dannay-2/> (last visited June 18, 2024).

²⁵ June Besek worked as a lecturer and executive director of the Kernochan Center for Law, Media, and the Arts at Columbia Law School until her retirement at the end of the 2023 academic year. See Fall 2022, COLUMBIA UNIVERSITY: KERNOCHAN CENTER NEWSLETTER, <https://kernochan.law.columbia.edu/content/newsletter> (last visited July 23, 2024). As Director, she was instrumental in expanding Kernochan into the renowned center for IP law and arts academia that it is known as today. *Id.* She was named the Chair of the Intellectual Property Law (IPL) Section of the ABA, serving from 2020-2021. See *News*, KERNOCHAN CENTER FOR LAW, MEDIA, AND THE ARTS, <https://kernochan.law.columbia.edu/content/news> (last visited July 23, 2024). Aside from this, she is also a leading mind in copyright policy. *Id.* She was instrumental in the initial drafting and commentary surrounding the ALI's Copyright Restatement Project. *Id.*

²⁶ After celebrating 40 years of service, Peters was presented with a Lifetime Achievement Award from the Los Angeles Copyright Society. David Carson noted that Peters "has drawn the praise of congressional leaders in the field of intellectual property from both sides of the aisle, and from the House and Senate," highlighting the complete IP powerhouse Peters was. *Register of Copyrights Marybeth Peters Receives Lifetime Achievement Award*, LIBRARY OF CONGRESS (Mar. 27, 2006),

Marybeth earned the respect and admiration of virtually all the members of Congress on both sides of the aisle who dealt with copyright legislation and policy.

So many members of the House and Senate Judiciary committees who disagreed on just about everything else were able to agree on copyright issues, and they relied on Marybeth for her expertise and guidance. Over the course of her career, Marybeth heard a lot of people, including a lot of important people, praise her to the heavens. Those of us who worked with her might have been forgiven if we worried that all this praise might give her a swelled head, but one of the things you quickly learned about Marybeth was that she was about as unegotistical as a person can be.

Now, it's true that there was that time in Brazil when she thought she could walk on water, but that was really out of character. What was in character was that Marybeth enjoyed such a rare combination of self-assurance and humility that she was more than willing to recount any numbers of stories about herself which, if you or I had told them about her, might be considered rather impertinent.

In those stories, she was usually the butt of the joke, whether it was walking into a rooftop pool en route to practice at a hotel in Rio de Janeiro while she was mesmerized by the view of Sugarloaf Mountain or being locked in the only women's restroom in a Saudi Arabian government building in the 1980s. It takes someone with a great sense of humor and humility to be able to tell such stories about herself. And one thing you learned about Marybeth when you spent any amount of time with her is that she had a truly wonderful sense of humor.

Quite literally, a day didn't go by in the Register suite when you didn't hear Marybeth's inimitable laugh, no matter where in the suite you might be. For thirteen years, I had the best job in the copyright world. Being Copyright Office General Counsel is one of the best jobs a copyright lawyer could want, but being Marybeth's General Counsel was an unparalleled opportunity. Can you imagine being Marybeth's legal advisor on copyright issues? It's a little like being Aristotle's personal philosopher or the Dalai Lama's spiritual advisor. She didn't really need my advice.

She pretty much knew it all, but she always professed to be grateful for it. And I certainly benefited from her advice. I learned volumes from her about copyright law, about legislation, about the administrative process, and about getting things done despite all the best efforts of the bureaucracy to thwart your every desire. For thirteen years, there wasn't a day when I didn't look forward to coming into the Office, and the reason for that was Marybeth. Working with Marybeth wasn't work. It was fun. I miss those days. But every time I think about Marybeth, it brings a smile to my face. I'll now turn it over to Maria.

Maria Pallante:²⁷ Thank you, David. Aristotle’s personal philosopher, that’s incredible. Before I say a few words about Marybeth, I want to join my co-host Regan Smith in welcoming everybody who’s tuned in today to take time to celebrate Marybeth and also our long list of distinguished speakers. It’s an honor to be on the screen with all of you.

Marybeth was a magnificent person, as you’ve already heard and will hear for the next hour. I feel very fortunate that I had a chance to work for her twice when she was Register – briefly at the beginning of her tenure during the WIPO Treaty negotiations, that Shira, her first Associate Register, mentioned, and then later during her last four years as Register. Marybeth was very respectful of authors and their place in society, and she was a lifelong music fan. She was brilliant, kind, humble, and diplomatic. And she had that joyful sense of humor that everybody treasured.

She had some adversity in her life and sometimes in her career, but she was strong, and she was serious about what mattered most to her, both issues and people. For me, many honors come to mind: The great fortune of meeting her when I was a new attorney, the honor of supporting her as deputy general counsel and then head of policy and international affairs later in my career, the honor of building upon her instrumental achievements when I became Register, and the privilege of helping her after she retired.²⁸ She became ill, but she was always, always asking about the copyright community, especially the Copyright Office.

Marybeth was admired, and she was vastly popular. I remember at a Copyright Society meeting long ago at the Sagamore in which the President introduced Marybeth by noting that no last name is necessary. “Like Madonna,”

²⁷ Maria Pallante is the President and Chief Executive Officer of the Association of American Publishers and a lecturer in copyright law at the George Washington University Law School. From 2011 through 2016, she served as the Register of Copyrights and Director of the United States Copyright Office, during which she worked closely with Congress on a comprehensive review of the Copyright Act, advised on agency modernization, and overhauled the Compendium of Copyright Practices into a transparent digital resource. From 2007-2011, Pallante was the Copyright Office’s Deputy General Counsel and then Associate Register for Policy and International Affairs. Earlier in her career, she was in-house counsel with the global Guggenheim Museums and in private practice. She has delivered numerous distinguished copyright lectures and is a former Trustee of the Copyright Society. *Maria A. Pallante*, GEORGE WASHINGTON UNIVERSITY LAW SCHOOL, <https://www.law.gwu.edu/maria-pallante/> (last visited October 11, 2024); *Maria A. Pallante, 2011-2016*, COPYRIGHT.GOV, <https://www.copyright.gov/about/register/pallante/pallante.html> (last visited June 18, 2024).

²⁸ Maria Pallante was Director of Policy and International Affairs in the U.S. Copyright Office. *Maria A. Pallante*, GEORGE MASON UNIVERSITY, <https://cip2.gmu.edu/about/advisory-board/maria-a-pallante/> (last visited Jul. 18, 2024); *Maria A. Pallante, 2011-2016*, COPYRIGHT.GOV, <https://www.copyright.gov/about/register/pallante/pallante.html> (last visited June 18, 2024).

he said. It was true. Just say “Marybeth,” and everybody will know who you mean, at least in copyright circles. And by copyright circles, I mean the whole world. One of my lasting impressions of public service is finding myself in Asia or Africa and having somebody say, “Do you know Marybeth?” I think everybody that’s worked for the Copyright Office and who has traveled has had that experience.

Marybeth’s achievements were significant and unique as a legal expert, public official, and a chief executive. Although many will recall her warmth and humility, we should not lose sight of the fact that she was an outstanding technical lawyer. And she wasn’t above correcting people, albeit gently, including prominent practitioners who sought to fudge a fact or two in a meeting or a roundtable.

Remarkably, she implemented both the 1976 Copyright Act and the DMCA.²⁹ She led the Office during many critical copyright developments. One of those was the Google Books settlement – the Google Books case – just before she retired.³⁰ Always the impartial public servant and expert, she could not

²⁹ The 1976 Copyright Act governs exclusive rights, limitations and exceptions. When enacted after decades of work by the Copyright Office and Congress, it simplified and completely overhauled the 1909 Act and moved the United States closer to international standards while maintaining important balances and safeguards. Among other amendments, it addressed automatic federal protection for both published and unpublished works fixed in a tangible medium, extended the general term of protection to the life of the author plus 50 years, codified the judge-made fair use doctrine, and largely preempted the smattering of state common law copyright rules still in existence at the time. For an analysis from 1978, the year of implementation, see Robert Gorman, An Overview of the Copyright Act of 1976, available https://scholarship.law.upenn.edu/cgi/viewcontent.cgi?article=6925&context=penn_law_review. See also Marybeth Peters, GEN. GUIDE TO THE COPYRIGHT ACT OF 1976, U.S. COPYRIGHT OFFICE (1977), <https://www.copyright.gov/reports/guide-to-copyright.pdf>. The Digital Millennium Copyright Act (DMCA), which implements the 1996 WIPO Internet Treaties, became law in 1998. It amended U.S. copyright law to address important parts of the relationship between copyright and emerging, commercial internet. There were three main updates including: (1) establishing safe harbors from liability for online service providers under certain circumstances, through a new “notice and takedown system”; (2) ensuring legal protections and incentives to copyright owners for digital formats and transmission; and (3) making it unlawful to provide false copyright management information or to remove or alter that information. See *The Digital Millennium Copyright Act*, *supra* note 19.

³⁰ *Authors Guild, Inc. v. Google, Inc.* concerned whether it was fair use for Google to scan millions of print books from library collections in their entirety for the purpose of creating and enhancing Internet search functionality and publicly displaying “snippets” without payment or permission to the author or rightsholder. Among other terms, the proposed settlement agreement would have allowed Google Books to continue digitizing books, while paying for previously scanned books, creating a revenue program for future books as part of its the search engine, and allowing authors and publishers to opt out (not in). After the District Court rejected a proposed settlement and attempted revised settlement, the case went to trial. In upholding the District Court’s fair use determination, the United

support the settlement that authors, publishers, and Google wanted.³¹ She famously called it a judicially sanctioned compulsory license that would benefit one company and which, in any event, would impinge on the powers of Congress.³²

The House Judiciary Committee took notice of her remarks, which I believe were at Columbia University, and they called a hearing.³³ The Department of Justice took notice of the hearing, and they quoted her congressional testimony in their brief to the court.³⁴ Judge Chin agreed with the DOJ and rejected the proposal.³⁵ In other words, so influential and admired an expert was Marybeth in her last years of service that three branches of government came together to heed her advice.

I first met Marybeth in 1991 when she was a policy planning advisor, and I was a year out of law school working at the Author's Guild.³⁶ She was speaking

States Court of Appeals for the Second Circuit agreed with the district court that Google's copying was "transformative." *Authors Guild v. Google, Inc.*, 804 F.3d 202 (2d Cir. 2015).

³¹ Although it recognized some of the benefits of what the parties were attempting to craft, the District Court ultimately rejected the proposed settlement as well as a revised Amended Settlement for a variety of reasons consistent with the concerns of the U.S. Department of Justice and amici, including the settlement's departure from established copyright rules and its monopoly benefits to Google. *See also \$125 Million Settlement in Author's Guild v. Google, THE AUTHOR'S GUILD*, (Oct. 28, 2008), <https://authorsguild.org/news/125-million-settlement-in-authors-guild-v-google/>.

³² Statement of Marybeth Peters. "As a matter of copyright policy, courts should be reluctant to create or endorse settlements that come so close to encroaching on the legislative function. Congress generally adopts compulsory licenses only reluctantly in the face of a failure of the marketplace, after open and public deliberations that involve all affected stakeholders, and after ensuring that they are appropriately tailored. Here, no factors have been demonstrated that would justify creating a system akin to a compulsory license for Google – and only Google – to digitize books for an indefinite period of time." <https://www.copyright.gov/docs/regstat091009.html>

³³ *Id.*

³⁴ Statement of Interest of the United States of America Regarding Proposed Class Settlement, *Authors, Guild, Inc. v. Google, Inc.*, No. 1:05-cv-08136-DC, (S.D.N.Y. Sept. 18, 2009).

³⁵ *See generally, Court Rejects Google Settlement. Noting Benefits, Judge Chin Urges Revision*, THE AUTHORS GUILD (March 22, 2011), <https://authorsguild.org/news/court-rejects-google-settlement/>.

³⁶ The Authors Guild is the nation's largest and oldest professional organization for published writers. The Guild advocates on behalf of writers to protect freedom of expression, freedom of speech, author's copyrights, fights for fair contracts and livable wages, and provides a community for writers and translators of all genres of literature. The Authors Guild also provides free programs to teach authors about the business side of writing and organizes programs to highlight the importance of American literary culture. *Who We Are*, THE AUTHORS GUILD, <https://authorsguild.org/about/> (last visited June 18, 2024).

at a seminar in New York. I think it was a PLI program.³⁷ And she was intimidating and charismatic. When I approached her after, she treated me with friendliness and respect as though somehow, what I had to say about copyright was much more interesting than her complete mastery of the Copyright Act. It was an exchange that I've never forgotten, and I later learned that many, many people have had that experience, from senators to interns.

I worked for Marybeth twice, first as a policy advisor for a year, but I had a young family at the time and Washington didn't work out for us for a number of reasons. She was very magnanimous about it – she really was a progressive boss when it came to family matters. And although she devoted her own career to government, she did not expect that of everyone. On the contrary, she often said that lawyers should try to serve both government and the private sector. She thought it was a win-win for the profession.

One of Marybeth's many gifts was making complex issues really clear. I still remember a House hearing in which Marybeth testified, during which Howard Berman, Democrat from California, and Howard Coble, Republican from North Carolina – we called them “The Howards” – competitively questioned her for their own purposes with each calling her out as his absolute favorite witness.³⁸ Marybeth, who respected the halls of Congress immensely, but enjoyed people even more, let her trademark laugh ring out. And no one has ever left a copyright hearing in such a good mood.

When she retired, she received letters from U.S. Presidents.³⁹ George Bush wrote, “American people deserve the best that federal agencies can provide. You

³⁷ Practicing Law Institute (PLI) is a non-profit organization dedicated to keeping professionals and attorneys at the forefront of expertise and knowledge. PLI provides accredited legal and professional continuing education programs delivered by over 4,000 volunteer faculty including lawyers, judges, U.S and International government officials and regulators, and corporate bankers, accountants, and counsel. *About PLI*, PLI, <https://www.pli.edu/about> (last visited June 18, 2024).

³⁸ The “Howards” were bipartisan leaders on copyright policy for a long time. Howard Berman was a Member of Congress for 20 years, serving until 2013. He was an active member of the House Judiciary Committee, including chairing the IP Subcommittee, and was both Chair and Ranking Member of the House Foreign Affairs Committee. *The Honorable Howard L. Berman*, PACIFIC COUNCIL ON INTERNATIONAL POLICY, <https://www.pacificcouncil.org/about/network/profile/howard-l-berman>. Howard Coble was as a member of Congress for 30 years until 2015, serving on the House Judiciary Committee throughout his long career, including as chair of the IP Subcommittee. Matt Schudel, *Howard Coble, North Carolina Republican in U.S. House, dies at 84*, THE WASHINGTON POST (Nov. 4, 2015, 7:02 PM), https://www.washingtonpost.com/politics/howard-coble-north-carolina-republican-in-us-house-dies-at-84/2015/11/04/ceae9b64-8313-11e5-9afb-0c971f713d0c_story.html.

³⁹ Marybeth Peters received letters from Presidents Jimmy Carter, George H.W. Bush, Bill Clinton, and Barack Obama recognizing her for her decades of public service. *Official Obituary of Marybeth Peters*, DE VOL FUNERAL HOME, <https://www.devolfuneralhome.com/obituaries/Marybeth-Peters?obId=26015312> (last visited June 18, 2024); Letter from George Bush to Marybeth Peters (Sep. 21, 2010) in 58

have been the best.” Jimmy Carter wrote, “You have exemplified the loyalty, dedication, and expertise that should be the essence of all public servants.” And Bill Clinton wrote that, “With your tenure in this role coinciding with the rise of the internet, you have truly forged a path into a vast new frontier. Your example is inspiring.”

We know that Marybeth has left us a large and lasting body of work, from her congressional testimony to her many speeches, and she will be quoted for a long time to come. But I want to say that Marybeth loved copyright law, but as Casey said, she loved copyright people even more. She kept track of people that she met and worked with in government service and the private sector, and she absolutely treasured the Copyright Society.

Not everyone may realize that the Copyright Society was launched by the Copyright Office in 1952 by Register Arthur Fisher.⁴⁰ He realized that the copyright bar needed a private sector organization, in part to take over his copyright bulletin.⁴¹ Marybeth personified this symbiotic respect between the Copyright Office and the copyright bar and the joy of professional friendships.

She was extremely important to me personally. She was a brilliant colleague and a treasured mentor, and she became like family. But to everyone listening today, I want to say that if you have fond memories of working with Marybeth or even simply meeting her, she very likely was inspired by you, too. And in her genuine, humble manner, she was very proud to be your colleague. Thank you. And over to my colleague, Francis Gurry.

J. OF THE COPYRIGHT SOC’Y OF THE U.S.A. 1, 1 (Stacey Dogan & F. Jay Dougherty eds., 2010); Letter from Jimmy Carter to Marybeth Peters (Dec. 31, 2010) *in* 58 J. OF THE COPYRIGHT SOC’Y OF THE U.S.A. 1, 3 (Stacey Dogan & F. Jay Dougherty eds., 2010); Letter from William J. Clinton to Marybeth Peters (Oct. 8, 2010) *in* 58 J. OF THE COPYRIGHT SOC’Y OF THE U.S.A. 1, 5 (Stacey Dogan & F. Jay Dougherty eds., 2010).

⁴⁰ Arthur Fisher was an attorney who served as Secretary of Interior under President Taft. In 1946, he joined the staff of the Copyright Office as Associate Register. He became Acting Register in May of 1951 and Register of Copyrights in September of 1951. As Register of Copyright, Fisher helped to found the Copyright Society in 1952. Arthur Fisher, 1951-1960, COPYRIGHT.GOV, <https://www.copyright.gov/about/registers/fisher/fisher.html> (last visited June 18, 2024).

⁴¹ During the 1950s, the Copyright Office compiled monthly publications called the *Bibliographic Bulletin*, which was an internal bulletin for employees of the Office. See Maria Pallante, *The 60th Anniversary of the Copyright Society of the U.S.A.*, THE JOURNAL OF THE COPYRIGHT SOCIETY 677, 679 (2013). In 1952, Fisher sent copies of this Bulletin to several members of the copyright bar, where it was subsequently disseminated to the copyright community at large. *Id.* After positive reviews, Fisher realized that it would be preferable to start an independent organization to encourage publication on a regular basis. *Id.*

Francis Gurry:⁴² Thank you very much, Maria. And thanks, Maria and Regan, for including me in this really wonderful celebration and honoring of the life of Marybeth Peters, a dear friend to all here present but to so many more people across the globe. Marybeth was a highly respected, well-loved, and outstanding actor on the international stage.

Her contributions were manifold as a delegate and representative of the United States of America, as a member of the secretariat of the World Intellectual Property Organization during her secondment at the beginning of the 1990s⁴³ as the Register of Copyrights who, as Shira has mentioned, recognized the importance of international relations by establishing the Office of Policy and International Affairs within the Copyright Office,⁴⁴ as the convenor of capacity-building training courses for officials from developing countries; and, above all perhaps, as the magnetic personality whom so many delegates and specialists from around the world found so easy to approach and so accessible.

The platform for Marybeth's success internationally was her open and warm personality expressed through her engaging smile and her infectious laugh, as has been mentioned. It created the basis for establishing relationships of trust in an environment where distrust is often the default position. And that foundation of trust enabled dialogue and, eventually mutual understanding.

As Shira has also mentioned, much of Marybeth's tenure as Register of Copyrights took place in the 1990s, which sparked the rather tumultuous start of the unfolding of digital transformation in the creative industries. Marybeth was a key figure in translating thinking and approaches from the international to the national and vice versa. The implementation and embellishment of the WIPO Internet Treaties of 1996 in the Digital Millennium Copyright Act, a massive process and mediation, took place while Marybeth, of course, was Register.⁴⁵

And her conviction of the inevitability of digital transformation also saw Marybeth as the mover of the Electronic Registration System in the Copyright

⁴² Francis Gurry is the former Director General of the World Intellectual Property Organization (2008-2020). *Director General Francis Gurry*, WIPO, https://www.wipo.int/about-wipo/en/dg_gurry/ (last visited June 18, 2024).

⁴³ Marybeth Peters was a consultant on copyright law at the World Intellectual Property Organization in 1989-1990. *Marybeth Peters*, WIPO, https://www.wipo.int/meetings/en/2010/symp_ip_auth/bios/peters.html (last visited June 19, 2024).

⁴⁴ The Office of Policy and International Affairs ("PIA") assists the Copyright Office with domestic and foreign policy analyses, legislative support, and trade negotiations. *International Affairs*, COPYRIGHT.GOV, <https://www.copyright.gov/international-issues/> (last visited June 18, 2024).

⁴⁵ The WIPO Copyright Treaty and WIPO Performances and Phonogram Treaty, also known as the WIPO Internet Treaties, set down international norms aimed to prevent unauthorized access and use of creative works on the internet. *See WIPO Internet Treaties*, *supra* note 19.

Office.⁴⁶ I'm sure that I can speak on behalf of everyone from outside the United States of America, but also within, of course, in expressing our deep gratitude to Marybeth for the professional and personal gifts that she gave us throughout her lifetime.

It was a pleasure and a privilege to know Marybeth. And you live on in our hearts. So, thank you. And I now have the privilege to be able to pass the word—I'm speaking in French now, sorry – to Karyn Temple, the former register. Karyn, please.

Karyn Temple:⁴⁷ Thank you, Director General Gurry. And thank you, definitely, Maria and Regan and the Copyright Office for putting this on. As mentioned, I was the 13th Register of Copyrights.⁴⁸ So, everyone has a Marybeth story, as you've heard and are gonna continue to hear. Sometimes, it's about her boisterous laugh. Sometimes, it's about her self-deprecating humor. Sometimes, it's about her mentorship. And sometimes, it's about her almost encyclopedic knowledge of copyright law.

My story today is about her generosity, her warmth, and her inclusivity. Marybeth had the ability to make everyone who crossed her path, no matter how different in background, feel welcomed and nurtured. I first met Marybeth prior to becoming a true "copyright lawyer" or copyright nerd, as those of us in the Copyright Society like to refer to ourselves, while still working to make copyright my full-time field. It was many years ago. And unlike others, I won't actually say how many years ago it was to age myself, but many years ago.

⁴⁶ The Electronic Registration System allows users to register copyright claims for basic works including, "(1) a single work, (2) multiple unpublished works if they are by the same author(s) and owned by the same claimant, and (3) multiple published works if they are all first published together in the same publication on the same date and owned by the same claimant." *U.S. Copyright Office Releases New Technology to Process Applications Online*, LIBRARY OF CONGRESS (June 25, 2008), <https://www.loc.gov/item/prn-08-115/>.

⁴⁷ Karyn Temple is Senior Executive Vice President and Global General Counsel for the Motion Picture Association. See *Karyn A. Temple*, MOTION PICTURE ASSOCIATION, <https://www.motionpictures.org/people/karyn-a-temple/> (last visited June 18, 2024). As one of the leading authorities on copyright, she has served as the Register of Copyrights, Associate Register of Copyrights, and senior counsel for policy and international affairs for the Copyright Office. See *Karyn A. Temple, 2019-2020*, U.S. COPYRIGHT OFFICE, <https://www.copyright.gov/about/registers/temple/temple.html> (last visited June 18, 2024). Spearheading several training programs and international copyright treaties, Temple has been a prominent voice for emphasizing modernization in the field, extending outreach efforts, and expanding disability access for published works. *Id.* In 2018, she even established the Copyright Modernization Office in an effort to reengineer her various initiatives. *Id.*

⁴⁸ Karyn Temple was the Register of Copyrights from March 2019 to January 2020, overseeing the modernization of the Copyright Office and provisions of the Copyright Act. Additionally, she was Acting Register of Copyrights from October 2016 to March 2019. *Id.*

And I somehow found myself as chair of the Copyright Committee for the DC Bar Association's Intellectual Property Association, even though I was barely a copyright lawyer and had very little knowledge of that area. One of the main events for the IP section was, of course, a lunch with, you guessed it, the Register of Copyrights, Marybeth Peters. I was told I must contact her and get her agreement to do the lunch, and then [I] would be introducing her at the luncheon.

Needless to say, I was terrified and intimidated. Here I was, this very junior no-name lawyer, contacting one of the, if not actually the, pillar of the entire copyright community. Of course, everyone who knows Marybeth knows how this story ends. There was no reason for me to be worried or intimidated. Maybe it was because of her own hard work, starting out as a music examiner⁴⁹ while going to law school at night and being one of the few female copyright lawyers at the time, but Marybeth had a unique ability to relate to everyone.

She has talked publicly about her own struggle in the profession and that when she first became Register, people were often expecting to see a man, and that initially, she struggled with the fact that she had to act like a man rather than allowing herself to be who she truly was. And as we all know, who Marybeth truly was was a people person. Marybeth had a warmth, graciousness, and real amount of caring that wrapped you in a bear hug and just never let go, even for those, as I said, no-name junior lawyers like myself.

So, then and there, I determined on that day I would become a true copyright lawyer and would work for Marybeth at the Copyright Office. This is a true story. It became my goal and dream job. Of course, life had other plans. When I finally got called for a coveted interview for a position at the Copyright Office a couple of years later, I was eight and a half months pregnant. So, I went to the scheduled interview just to say hello. But needless to say, at that time, the timing wasn't quite right.

I kept in touch with Marybeth and others at the Copyright Office. And finally, timing was a little bit in my favor because I got the job, but Marybeth had just announced her retirement. So, we missed each other just by chance. But you remember that bear hug. It had truly never let go. Little did I know that Marybeth saw the entire Copyright Office as not just as employees but as family and treated them as such. I continued to learn and grow from Marybeth throughout my entire time at the Copyright Office as one of her zillion mentees.

And I knew when I became Register, there was absolutely no way I would ever be able to fill her shoes to be able to replicate that connection with everyone you meet and that familiarity that comes from working side by side and day by day, but she was an inspiration to me to try just a little. So, thank you, Marybeth,

⁴⁹ A music examiner in the Copyright Office is a specialized Registration Examiner, focusing on applications relating to the music field. *See generally* Ashley Tucker, *The Life of a New Registration Specialist*, LIBRARY OF CONGRESS BLOGS (June 3, 2019), https://blogs.loc.gov/copyright/2019/06/day_in_the_life_registration_specialist/.

for inspiring me, nurturing me, and, yes, wrapping me in that giant bear hug and never letting go. She was truly an inspiration. Thank you.

Joe Keeley:⁵⁰ Thank you, Karyn. My name's Joe Keeley. I'm currently on the Senate Judiciary Committee, but I had the pleasure of first directly working with Marybeth on the House Judiciary Committee in 2004 before I joined the Copyright Office in 2007. And I know this may come as a shock to everyone, but not every member of Congress is an expert on copyright law or, quite frankly, most things. So, having someone like Marybeth was critical for American copyright policy.

She's able to channel her vast knowledge of copyright law and policy with her personal skills in dealing with difficult people, which – surprise, surprise – includes many members of Congress. I've staffed numerous member meetings and hearings that involved Marybeth, and there was a universal respect for her on both a personal and professional level on both sides of the aisle. When Marybeth walked into a hearing or a meeting on The Hill, she commanded the room. No one tried to pull a fast one on her, and she wasn't going to try to pull a fast one on anyone else. That, honestly, is quite rare in D.C.

So, my personal tribute to Marybeth is a statement that she was a living embodiment of two key phrases: Respect is earned, not given. And don't make noise; make a difference. Marybeth earned her respect, and she always made a difference. Sadly, there aren't many like her these days, but I think we were all fortunate to have her as long as we did. Thanks. And I'll turn it back over to Maria.

Maria Pallante: Thank you so much, Joe, and thanks to everybody on the first panel. At this point, if I could ask the second panel to turn your cameras on? So, Jon, Art, Winston, Kate, Richard, and Eric. And then we're gonna go in order, Jon, then Art, then Winston, then Kate, then Richard, then Eric. Over to you, Jon Baumgarten.

Jon Baumgarten:⁵¹ Thank you, Maria. To state the obvious, Marybeth had a long, distinguished career in the United States and on the world stage. But today,

⁵⁰ Joe Keeley is a leading IP expert currently with Michael Best & Friedrich LLP in their IP and federal strategies teams. *See* Joe Keeley: Practitioner in Residence, GEORGE MASON, ANTONIN SCALIA LAW SCHOOL, <https://cip2.gmu.edu/about/our-team/joe-keeley/> (last visited June 18, 2024). He is also a Practitioner in Residence at George Mason University's Center for Intellectual Property x Innovation Policy. *Id.* Esteemed in the community, he is known for being the only person to serve as the Chief Intellectual Property Counsel for the U.S. House of Representatives *and* the U.S. Senate. *Id.* Guiding the enactment of many IP reform policies and legislative packages, he has been instrumental in the Music Modernization Act and the Defend Trade Secrets Act, as well as ending the Section 119 compulsory satellite license. *Id.*

⁵¹ Jon Baumgarten was appointed General Counsel of the U.S. Copyright Office in the late 1970's by the renowned Register of Copyrights Barbara Ringer. *See* Jon A. Baumgarten, FORDHAM IP INSTITUTE, https://fordhamipinstitute.com/wp-content/uploads/2017/04/Baumgarten_Jon_Bio2017.pdf (last visited June 18, 2024). During this time, he was a leading mind in the final formulation and drafting of the

I want to focus on one relatively brief but critical period during her 44 years in the Copyright Office. In the first week of January of 1976, almost 20 years before she became Register, I left New York and arrived in Washington as general counsel of the Copyright Office. Marybeth was an attorney on my staff.

It is important to understanding this period of Marybeth's career, and her unique contribution to copyright law, that it recognizes context. To some of you, this will be familiar, but to many, it may not. Upon passage of the 1976 Act, not only did we in the Office have to embark on the public notice and comment program far beyond anything the Office had previously undertaken, but literally every single practice forum's circular conclusion understanding the Office had adopted in the many decades before.⁵²

Essentially, everything the Office had thought, said, or done had to be carefully studied and measured to the new law. In the end, virtually all had to be replaced by an entirely new task, and principles had to [be] implemented. In addition, we had to establish an entirely new licensing division and deal with several court actions brought against us⁵³ while the copyright industries clamored for explanations of the new law and our impending practices.

And the international copyright forums – State Department, UNESCO, and WIPO – excited by the new law's signals to the world community, also demanded our time and attention. This cumulative effort was often exhausting and near[ly] overwhelming. Marybeth was a vital key player as we labored, puzzled, debated, and occasionally laughed along the way. And the Office succeeded, but underlying that success was the need for someone to perform a unique and critical task.

It was essential to conduct a massive yet prompt, intensive education program for the entire office staff with respect both the broad principles and implementing details of the new Copyright Act and the changes it demanded. Barbara and I easily agreed Marybeth was the answer. Marybeth readily accepted the challenge and performed far beyond already highest expectations. At that point, I lost a staff member, but the Office as a whole gained a mentor, and I retained a valuable resource and a friend.

Marybeth was always proud of her earlier days as a school teacher in Rhode Island.⁵⁴ She was, as we should all be, equally and deservedly proud of her time

Copyright Act. *Id.* Returning to private practice in 1980, he was a key figure in some of the most foundational copyright cases. *Id.* “[H]e was a leader in the development of trade-based international copyright standards... and he counseled and led teams... in the development, negotiation, and litigation of cross-industry technical standards and solutions for content protection.” *Id.*

⁵² COPYRIGHT ACT OF 1976, *supra* note 29.

⁵³ See generally U.S. Copyright Off. Licensing Div., *Copyright Office Launches New Licensing Division Website*, The Living Connection (2014), <https://www.copyright.gov/licensing/tlc/fall2014.pdf>.

⁵⁴ After attending Rhode Island College, Marybeth Peters became a social studies teacher for a couple of years. See Copyright Notices, *Special Edition: Marybeth Peters 1939-2022*,

during the late 1970s as the Copyright Office's, if not the copyright world's, educator in chief. I now will turn it over to my old friend, Art Levine.

Art Levine:⁵⁵ I just gave the winning lottery number for today, but I guess none of you heard it. What's quite clear at this point is that we are all on this program, not merely because we so respected Marybeth's amazing talent, but because we hold her with such affection in our hearts for the fun, warm, kind, happy person that she was. And I am thrilled that Regan and Maria and the Copyright Society staff decided to put this program on.

I met Marybeth Peters the day she began her copyright career in 1966.⁵⁶ I had been working in the Copyright Office for about three years before that. And suddenly, into the Office came this lovely, redheaded, beautiful woman with this Rhode Island accent that was at times incomprehensible, but for the most part, we understood. She worked in the music section as an examiner.⁵⁷ And I will mention the two people that she worked for, because they deserve [to be mentioned]. One was Penny Keziah, who was the head of the section,⁵⁸ and the other was Felicia Healy, the assistant head.⁵⁹

And they took her on as kind of a younger sister and nurtured her through her first time in the Copyright Office. She worked in this large room, and I mention it only because [of] what has already been described as a laugh, but I think more appropriately by Shira as a screech or shriek, rather, that suddenly came out of nowhere and awoken a number of the examiners that were probably dozing after lunch. I was fearful that the library police would come to see what was wrong in the Office, but that never happened.

U.S. COPYRIGHT OFFICE (SPECIAL ISSUE), <https://www.copyright.gov/about/registers/peters/peters-bio.pdf> (last visited June 18, 2024). She was then asked by her alma mater to become a trainer of student teachers. *Id.* In her own words, "I actually loved being a teacher. I loved teaching geography and history and civics and all of those things." *Id.*

⁵⁵ Arthur ("Art") Levine began his long and successful career at the Copyright Office in 1963, initially as an examiner in the Miscellaneous Section. *See* Copyright Notices, *Special Edition: Barbara Ringer 1925-2009*, U.S. COPYRIGHT OFFICE (SPECIAL ISSUE) (Apr. 2009), <https://www.copyright.gov/docs/barabara-ringer-special-edition-2009-04.pdf>. Three years later, he was promoted to assistant chief of the Examining Division. *Id.* In 1971, he left the Copyright Office and entered into private practice. *Id.*

⁵⁶ Marybeth Peters became a musical examiner in 1966. *Special Edition: Marybeth Peters*, *supra* note 54.

⁵⁷ *Id.*

⁵⁸ Dorothy "Penny" Keziah is a retired head of the Music Section. *See* Copyright Notices, *Special Edition: Barbara Ringer 1925-2009*, U.S. COPYRIGHT OFFICE (SPECIAL ISSUE) (Apr. 2009). She worked closely on the Revision Coordinating Committee in 1997 to develop a new classification system, make preparations to implement the new Administrative Procedure Act, and various other vital policy decisions and rulemaking. 80TH ANNUAL REPORT OF THE REGISTER OF COPYRIGHTS, at 13 (1978).

⁵⁹ Felicia Healy assisted Peters in these projects with Keziah. *Id.*

George Cary was the Deputy Register of Copyrights at the time.⁶⁰ George became Register for a day before Barbara Ringer successfully won her lawsuit and became Register.⁶¹ And George taught copyright law at GW as an adjunct, and Marybeth was one of his students.⁶² And George told me one day that Marybeth was the best student he had ever had in his class, and that doesn't come as a surprise, I don't think, to any of us.

I noticed in all of the pictures that were shown one constant, and that is Marybeth always smiling. The Marybeth I met in 1966 was the same Marybeth I knew 50 years later, in 2016. Her successes never went to her head. She was always the same wonderful person, the same friend. I, on occasion, would have the opportunity to go [to] the Copyright Office on some business or other while she was Register, and I would pop into her office. She always had time to chat. We would talk about copyright issues, or we would reminisce, or we would gossip a little bit about things in the copyright world.

This week, I decided, when you're retired, you have plenty of time to do all sorts of things. And so, I put on a YouTube presentation that Marybeth gave. I then learned, I guess from Maria, that it was probably at Columbia, and it was on the Google Books settlement.⁶³ And there was this wonderful, wonderful Marybeth, and her passion for authors' rights and copyright just came through. I

⁶⁰ George Cary served as Deputy Register for the Copyright Office from 1961 to 1971. See *George D. Cary, 1971-1973*, U.S. COPYRIGHT OFFICE, <https://www.copyright.gov/about/registers/cary/cary.html> (last visited June 18, 2024). He was subsequently appointed Register of Copyrights, where he was a prominent figure in the Office's efforts to the copyright law revisions of 1976. *Id.*

⁶¹ See *Ringer v. Mumford*, 355 F. Supp. 749, 751 (D.D.C. 1973). (Ringer brought this suit against the Librarian of Congress on the claim that the appointment of the new Register was discriminatory on the bases of sex and race. This suit resulted in her eventual appointment as the first female Register. Since she was passed over by the "old boys' network," it was concluded that she had been denied the job "as the result of discrimination for reasons of sex and race." The basis for race was due to her avid advocacy for "the rights of blacks in the Copyright Office.").

⁶² Marybeth Peters received her law degree from George Washington University Law School in 1971. *Special Edition: Marybeth Peters*, *supra* note 54.

⁶³ This is in reference to the landmark decision in *Authors Guild, Inc. v. Google Inc.*, concerning whether copying entire copyrighted texts into Google's full-text search function should be protected under the fair use defense. 721 F.3d 132, 133 (2d Cir. 2013). The Court agreed that this search function "augments public knowledge by making available information about [p]laintiff's books without providing the public with a substantial substitute for matter[s] protected by the... copyright interests in the original works." *Authors Guild v. Google, Inc.*, 804 F.3d 202, 207 (2d Cir. 2015). This ruling has been considered to make information "just... a little more free." Robinson Meyer, *After 10 Years, Google Books Is Legal*, THE ATLANTIC (Oct. 20, 2015), <https://www.theatlantic.com/technology/archive/2015/10/fair-use-transformative-level-google-books/411058/>.

guess Jon was on the panel, too.⁶⁴ But Jon, unfortunately, they didn't show you on this YouTube, maybe on another one.

I just wanna finish by thanking Maria and David Carson for being the wonderful friends they were to Marybeth in the last years of her life. Many of you probably don't know this, but they really just were dedicated to Marybeth and took wonderful care of her. And for that, I think we can all be very, very grateful. I'll now pass it on to Winston Tabb.

Winston Tabb:⁶⁵ Thank you. I really adored Marybeth, and I'm proud to say that as probably, I think for sure, the only librarian speaking today. Not every librarian would necessarily agree. A few library colleagues had the chance to know and work with Marybeth in the ways that I was so privileged to do. Marybeth was smart. She was fun. And she was a dream colleague whom I had the good fortune to work with in multiple roles during my years as chief of the information and reference division in copyright and then as the Associate and Deputy Librarian of Congress.

I first met Marybeth when she was assigned around 1980 to work with colleagues in the Library of Congress on the development of the optical disc project.⁶⁶ How quaint this effort sounds today from today's perspective, but it was a pioneering attempt by the Library Congress to begin using evolving technologies to make library content more widely accessible, but, of course, within the parameters of existing copyright law.

What impressed me then and really always was how Marybeth always started our conversations by asking, "What would you like and be able to do?" rather than by declaring that the whole idea of copying and making content accessible electronically was dead on arrival or, at least, so discouraging and problematic that we probably shouldn't even proceed. She really was a problem solver.

Marybeth's love of copyright was so infectious, so jubilant, that when I saw the position of chief of the Copyright Office Information and Reference Division posted, I thought, "I'd really like to go over to the Copyright Office and learn more about this fascinating topic."

Of course, I realize in retrospect that, ordinarily, the role might more logically have gone to someone like Marybeth, a predecessor to the chief who was prepared to convey expertise rather than gain it, but I was young and curious and naïve, and

⁶⁴ Jon A. Baumgarten, *supra* note 51.

⁶⁵ Winston Tabb served as Sheridan Dean of University Libraries, Archives, and Museums at Johns Hopkins University before his retirement. *Winston Tabb of Johns Hopkins University to Retire in 2022*, NISO, (Dec. 2021), <https://www.niso.org/niso-io/2021/12/winston-tabb-johns-hopkins-university-retire-2022>. Prior to joining Johns Hopkins, Tabb worked at the Library of Congress for 30 years. *D. Winston Tabb*, INSTITUTE OF MUSEUM AND LIBRARY SERVICES, <https://www.ims.gov/d-winston-tabb> (last visited June 19, 2024).

⁶⁶ See THE REGISTER OF COPYRIGHTS OF THE U.S., LIBRARY REPRODUCTION OF COPYRIGHTED WORKS (17 U.S.C. 108), REPORTER OF THE REGISTER OF COPYRIGHTS 106 (1988).

Marybeth really encouraged me to go for it. So, I did and was really quite astounded but then elated when the Register of Copyrights David Ladd called to offer me the position.⁶⁷

I will never forget my first day at the Copyright Office when, as I was waiting at the elevator to go to lunch, a person totally unknown to me accosted me and yelled, “You are everything that’s wrong about the Copyright Office. You librarians are...” And I hastily escaped into the elevator before I heard the rest of the sentence, wondering what I had gotten myself into.

As soon as I returned from lunch, I called Marybeth to tell her what had happened. And I shall never forget her big laugh, mentioned by so many already today, as she said to me, “Oh, that was probably X. He doesn’t like me either.” And in fact, it turned out that it was X.

I have many, many wonderful memories of my four years in the Copyright Office, but absolutely the most rewarding and substantive are the lectures about copyright that Marybeth gave for the non-attorney staff every Thursday afternoon. She was a natural teacher who took us to school so engaged by her subject that we were swept along, learning while laughing, as she made copyright seem like the most enthralling subject imaginable.

In due course, I became the Deputy Librarian of Congress at the very time when we needed to select a new Register of Copyrights.⁶⁸ As head of the search committee, I had the privilege of recommending to the librarian that he appoint Marybeth to the position she had spent decades preparing for. And the rest is history. I am very fortunate and proud to have been part of as we gather here today to celebrate this extraordinary woman. And I’d now like Kate Spelman to speak.

Kate Spelman:⁶⁹ Thank you, Winston. Wow. Maria really nailed it when she said there was an element in Marybeth of being intimidating and charismatic, and you don’t usually get that in one person without it having to be something of an oxymoron. With Marybeth, it was not an oxymoron. It was completely coherent and consistent. My variety of stories that could be told are huge. I’m loving

⁶⁷ David Ladd was appointed Register of Copyrights upon the retirement of Barbara Ringer. See David Ladd, 1980-1985, U.S. COPYRIGHT OFFICE, <https://www.copyright.gov/about/registers/ladd/ladd.html> (last visited June 18). He was the first Register who also served as Commissioner of Patents. *Id.* He was also the first Register to ever visit the People’s Republic of China, where he hosted their National Publishing Administration and presented a number of lectures. *Id.* He famously delivered a lecture at New York University, where he noted that the First Amendment and copyright were “indispensable” in fostering the “freedom of authors, publishers, and the public.” *Id.*

⁶⁸ *Winston Tabb, supra* note 65.

⁶⁹ Katherine (“Kate”) Spelman is a leading voice on the progress of emerging copyright and digital publishing. See *Katherine C. Spelman*, PRACTICING LAW INSTITUTE, <https://www.pli.edu/faculty/katherine-c.-spelman-i456315> (last visited June 24, 2024). Her experience has spanned from assisting clients with Open Source licensing issues to representing large digital publishing companies. *Id.*

hearing so many. We obviously each had consistency in our experience with Marybeth.

I've assigned myself the task to focus on her stellar educating, and her as an agent of inclusion. First, as an educator, as we're hearing today, we all benefited from her clarity of understanding and her clarity of seeing complexity without having it be inconsistent except when it was. She understood the 1909 Copyright Act⁷⁰ and the 1976 Copyright Act⁷¹ with unparalleled detail, and she could catch us all if we had any eliding of information or merging of things that should be kept separate. She was remarkable.

I first met Marybeth in the early days of early continuing education. I was at the Michigan Bar Association seminar at Boyne Highlands Resort in 1983. You can imagine what that looked like. There were under 50 as registrants. I was the only woman, and there were two women on the panel as faculty. One was Marybeth, and the other was Margaret Muth Laurence of the Patent Office.⁷² When I arrived, I had just moved from a big, giant law firm by those estimated days, Pillsbury Madison & Sutro, to the oldest law firm, patent-focused, west of the Mississippi.⁷³

I was there, the first woman and the first non-PhD scientist. They assigned me the nickname – I was the “Double Non.” And upon hearing that I was not a

⁷⁰ Derived from the U.S. Constitution, “[t]he Congress shall have power... to promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries,” the 1909 Copyright Act granted copyright protection. U.S. CONST. art. 1, § 8, cl. 8. This Act required proper notice and deposit of copies to the Copyright Office. *See generally* Copyright Act of 1909, Pub. L. No. 60-349, 35 Stat. 1075 (1909) (repealed by Copyright Act of 1979). While foundational for the expansion of protection for works of authorship, this Act only applies to works created and published prior to the enactment of the Copyright Act of 1976 (where copyright protection arises automatically once the work is fixed in a tangible medium). *Id.*; COPYRIGHT ACT OF 1976, *supra* note 29.

⁷¹ COPYRIGHT ACT OF 1976, *supra* note 29.

⁷² Margaret Muth Laurence was an expert in copyright and trademark law, pioneering the IP field for women. *See* Margaret Muth Lauren, *Michigan Women's Hall of Fame Timeline*, MICHIGAN WOMEN FORWARD, <https://miwf.org/timeline/margaret-muth-laurence/>. She became a self-taught expert in the field after becoming a secretary at a patent law firm. *Id.* Despite not having a college degree, she passed the Mississippi Bar in the top 5 percent and began her practice in Washington, D.C. *Id.* There, her expertise became internationally renowned and she was appointed as the Assistant Commissioner for Trademarks by President Carter. *Id.* She spent nine years as the Assistant Commissioner of Trademarks following her appointment in 1979. *Id.* In addition to her respected work as Assistant Commissioner, she founded multiple national women's organizations to help bolster the efforts for the Equal Rights Amendment. *Id.*

⁷³ Pillsbury Madison & Sutro has undergone restructuring regarding the specific business enterprise election and is now known in the field as Pillsbury Winthrop Shaw Pittman LLP., a “pillar of the business community since its founding in 1874.” *See* SAN FRANCISCO OVERVIEW, PILLSBURY WINTHROP SHAW PITTMAN LLP, <https://www.pillsburylaw.com/en/offices/san-francisco.html> (last visited June 18, 2024).

man and not a PhD scientist, I decided that the thing to do was roll with it. And I would say to people, “Yes. Well, two negatives make a positive.” And that seemed to work a while.

At this conference in Michigan, I was having some serious doubt as to whether or not I really wanted to be in the intellectual property community and whether I wanted to do trademarks or copyrights. Like Karyn Temple, I committed at that seminar to become a copyright lawyer based on Marybeth. She made it clear. She made it accessible, and she made a very big welcome for me.

It was a time of bar associations as we do not see them anymore, thankfully. It was a time when people were making it a point to make obfuscated conclusions about intellectual property. We began to call it intellectual property, for starters. When I joined my firm west of the Mississippi, it was a patent firm, and they had these little ancillary practices of trademark. I was to begin the copyright practice.

The more I got to know Marybeth, the more I found her to be plucky, resilient, and tirelessly willing to educate whether it was in airports, whether it was in forums of conferences, or whether it was shared cabs where someone would ask a question. And she would take the time to carefully detail the point of copyright misunderstanding or to celebrate creativity and to talk about how copyright really made the difference.

Marybeth touched thousands. She changed life trajectories, as you’ve heard now twice today. She made the world of copyright a better place. She had the unique knack of making individuals feel welcome and heard. As my practice expanded into international representation, I would arrive wherever it would be – Sweden, Switzerland, China, Japan – and people, upon learning that I was from the United States, would ask, “How is Marybeth?” And no one ever had to use a last name.

There was never a misunderstanding about whom they were asking. And they all knew I didn’t work at the Copyright Office, but they all wanted to know how she was. So, it was a little like, as it’s been mentioned, knowing Madonna. It was, for me, a very nurturing experience to know Marybeth over the 40 years, but let us not just celebrate and mourn the passing of Marybeth. Let us in this meeting take on the legacy ourselves to commit to being agents of inclusion and to being educators of copyright and celebrators of creativity. I thank you. Let me now pass this over to Richard Dannay.

Richard Dannay:⁷⁴ Thanks very much, Kate. We all know what a great expert Marybeth was in domestic and foreign copyright. And many of you, Jon included, have talked about her remarkable gift for teaching and communicating at every single level. But I have one example myself, even though it’s about 45 years old now. And that’s the General Guide to the Copyright Act of 1976, which

⁷⁴ See Richard Dannay, *supra* note 24.

bears the date of September 1977.⁷⁵ A lot of you will remember it but, as I said, it's 45 years old.

Marybeth, then Senior Attorney Advisor, undertook in the Copyright Office, as Jon indicated, a massive training of the staff, internally. And with her teaching and legal background, she created this intensive course, which is embodied in this publication. She had a course – to cite the statistics – on the new law for 260 staff members in 15 sessions of an hour and a half each, and then another 125 staff members in a more modest course. She prepared all the instructional materials. She designed both of the courses. And her materials were so popular and in such great demand that the Copyright Office had to issue this booklet to satisfy that demand.⁷⁶

It's a marvelous book, historically, a kind of Bible for introduction to the new law – over 100 pages in plain English covering every single topic. But it has a little footnote that I kind of relish.⁷⁷ A footnote to her Section 203, Termination Effect, which many of you will remember.⁷⁸ Because this publication illustrated, even in 1977, what later became known as the termination gap, an issue that got lost for about 35 years until around 2013, when many authors and songwriters said they first became aware of the infamous gap when asserting their own 203 rights.⁷⁹

Well, Marybeth was well ahead of all of them because they obviously hadn't read about this gap, not that she called it that, but she described it perfectly in her 1977 guide and gave specific examples.⁸⁰ So, wherever everybody else was, Marybeth was well ahead of them. And now, let me just close with a little anecdote from the Copyright Society. Marybeth was fearless but, at the same time, really goodhearted, as all of you have basically commented.

⁷⁵ The General Guide to the Copyright Act of 1976 was published by the United States Copyright Office in September 1977. U.S. COPYRIGHT OFFICE, GENERAL GUIDE TO THE COPYRIGHT ACT OF 1976 (1977).

⁷⁶ *Id.*

⁷⁷ See generally MARYBETH PETERS, GENERAL GUIDE TO THE COPYRIGHT ACT OF 1976 (1977).

⁷⁸ *Id.* at 6:5. (“NOTE: Some work will not be subject to any termination rights. Section 304(c) applies only to grants made prior to January 1, 1978 and section 203 applies only to grants made on or after that date. Section 203 termination rights apply only to grants made by the author, and works made for hire are not subject to termination.”).

⁷⁹ *Id.*; This Section of the Copyright Act grants authors the right to terminate certain grants of transfer within time frames set forth by statute. *Id.* Essentially termination rights allows authors, and their heirs, to garner further economic gain from their works. See Possible Gap in Termination Provisions, U.S. COPYRIGHT OFFICE (proposed June 6, 2011) (to be codified at 76 F.R. 32316). Marybeth Peters noted a narrow fact pattern regarding when the author agreed to grant prior to the calendar start date of 1978, but the work was actually created after the calendar start date. See *Special Edition: Marybeth Peters*, *supra* note 54. This is colloquially considered as the ‘termination gap’ in copyright. *Id.*

⁸⁰ *Special Edition: Marybeth Peters*, *supra* note 54.

In 1985, at the end of my first year as the Copyright Society President at the Annual meeting in June, I inaugurated the Copyright Society softball game, calling it Copyright Classic I, and I acted as the informal softball commissioner.⁸¹ Now, we had plenty of players to fill two teams and then some, but nobody was willing to volunteer to be an umpire.

So, I asked Marybeth to be the umpire, and she enthusiastically accepted, even though she acknowledged that this was indeed the first – yes, the first – baseball game she had ever attended and ever watched. She was the first person that I know who would say, “Hey, they aren’t balls or strikes until I call them.” Thank you. And now, over to you, Eric.

Eric Schwartz: Thank you, Richard. Thank you as well Maria, Regan, and the Copyright Society for inviting me to join what I will call the Marybeth Fest, a real celebration of Marybeth. Let me second Art’s comments with thanks to David Carson and Maria for taking care of Marybeth in her last years. It was really very much appreciated by her friends.

To sum up Marybeth’s legacy and career in three minutes, and to try and to say something unique as the 13th speaker here in this lineup, I organized my remarks into three baskets: Marybeth the teacher, Marybeth the policymaker, and Marybeth the manager as Register. If time permitted, I would also talk about just how much plain fun she was to be around, telling the best Marybeth stories and Copyright Office stories, and Lord knows there were plenty of them.

As [a] teacher: since we are all gauging ourselves on time, I met Marybeth on my very first day at the Copyright Office, which next month will be 35 years ago. April 1st, 1988. The Copyright Act of 1976 Guidebook that Richard was talking about was sitting on my desk, awaiting me on day 1.⁸² More importantly and immediately, Marybeth realized how little I knew about internal Copyright Office practice, and she took me under her wing as a tutor to teach me Copyright Office practice and the internal workings of the Office.

This segment of today’s talk is a focus on her early career. But by the time I arrived at the Office in 1988, she’d already been at the Copyright Office 22 years. So, I think it was the midway point in her 45-year career there, but the constant was that teaching. She started, as has been said, as a social studies teacher in Rhode Island.⁸³

And as Jon has mentioned – and Kate and Richard – Barbara Ringer asked her to; she prepared these internal training materials for Office staff.⁸⁴ And as

⁸¹ The Copyright Classic is still in effect today, with the 35th annual softball game occurring in 2023. See *AM23 Softball*, ANNUAL MEETING 2023, THE COPYRIGHT SOCIETY, <https://members.copyrightsociety.org/products/am23-softball> (last visited June 24, 2024).

⁸² *Special Edition: Marybeth Peters*, *supra* note 54.

⁸³ *Id.*

⁸⁴ Marybeth Peter created staff training for the Copyright Act of 1976, receiving the Library of Congress Superior Service award in 1977 for her valiant effort. See Marybeth Peters,

Richard said, it was known as Marybeth's Maxi Course, taught to several hundred people.⁸⁵ It meant two classes a day, four days a week, eight sessions per employee for 16 weeks.⁸⁶ It was a huge undertaking with a different course for the clerical and technical staff.

Here's one interesting anecdote about that: When Barbara recommended that the Guidebook be published. That came after someone had tried to register the written summaries that Marybeth had prepared.⁸⁷ One of the examiners who had been trained by Marybeth, recognizing the unauthorized registration, denied the registration.⁸⁸ That teaching is something that she always did, whether to Members of Congress or third-graders taking a tour of the Copyright Office. And yes, those groups are not necessarily mutually exclusive on the level of the teaching Copyright Law that that she would provide.

Sometimes she would walk past the Public Information Office, and if she saw a band trying to register a cassette tape, for instance, she would jump right in and help them with their registration. If the cliché in Washington [is] that "knowledge is power," Marybeth always worked against those conventions. She was happy to share everything she knew with anyone who asked. As a policymaker, you can run off the list of accomplishments, but the key thing to note is she had no political opponents and no drama in all that she worked on, at least none of it directed personally to herself.

Whether it was her work on the major 1976 Act revision⁸⁹ or an implementation to of the Visual Artist Rights,⁹⁰ Architectural Works Act,⁹¹ or enactment of changes to accede to the two digital treaties,⁹² or the WTO/TRIPS

1994-2010, U.S. COPYRIGHT OFFICE,
<https://www.copyright.gov/about/registers/peters/peters.html> (last visited June 18, 2024).

⁸⁵ *Id.*

⁸⁶ *Id.*

⁸⁷ *Special Edition: Marybeth Peters, supra* note 54.

⁸⁸ *Id.*

⁸⁹ See LEE HOLLAR, LEGAL PROTECTION OF DIGITAL INFORMATION, Ch. I.C. (2002). ("In the major revision of 1870, administration of copyright registration was centralized in the Library of Congress, where it remains to this day... The deposit requirement of two copies to the Library of Congress provided a free copy of virtually every book published for the national library.")

⁹⁰ The Visual Artists Rights Act ("VARA") provides protection for the physical integrity of certain works of visual art. See Edward J. Damich, *The Visual Artists Rights Act of 1990: Toward a Federal System of Moral Rights Protection for Visual Art*, 39 CATH. U.L. REV. 945, 946 (1990). The passage of this Act in 1990 is seen as a major advancement for the rights of artists. *Id.*

⁹¹ Copyright protection was extended in 1990 to include architectural works, which was defined as "the design of a building as embodied in any tangible medium of expression, including a building, architectural plans, or drawings." See U.S. COPYRIGHT OFFICE, COPYRIGHT REGISTRATION OF ARCHITECTURAL WORKS 1 (Circular 41, rev. ed. 2021).

⁹² See *WIPO Internet Treaties, supra* note 19.

Agreement.⁹³ She also did a lot of initial work with China on the Memorandum of Understanding with the United States Government⁹⁴ and on China's work to accede to the Berne Convention and then later to the WTO,⁹⁵ and of course the DMCA.⁹⁶ In addition to what Shira mentioned about moving the Copyright Office and the registration system into the digital era, and Marybeth completely reengineered the entire organization and work structure of the Office and still remained beloved by everyone in the Office and outside of the Office.

When you would talk to her about her job as Register, the thing that she would often say – and this is in the context of Marybeth as a manager – was that she was proudest of how she treated her own employees in the Office, which is not something you hear often in Washington D.C. or in other places for that matter. That was true both internally and outside the Office, folks on the Hill, as Joe Keeley mentioned, lobbyists and those in the copyright bar, and those in the Copyright Society. There really was no public persona different from her personality, no pretense. She talked the same way to a Member of Congress as she would to any staffer that she knew in the Office, and she knew most of them on a first-name basis.

I have a ton of stories and wish I had more time to share them. I know the often-told story is the one that Kate and I shared with Marybeth on her 60th birthday in 1999, but I'll just leave it at that by saying "what happened in Lake George will stay in Lake George." And with that, I think we are going to now see a short video of Marybeth doing one of her training sessions. Thank you.

Maria Pallante: Thank you, Eric. Yeah. I just want to thank this last panel, a very important group of people that knew Marybeth for such a long time and were so important to her. So, thank you so much for making time. And we are going to see a video now. I want to thank the Copyright Office for searching

⁹³ The Trade-Related Aspects of Intellectual Property Rights (TRIPS) is a World Trade Organization agreement that plays a central role in facilitating trade in knowledge and creativity and in resolving trade disputes over intellectual property. TRIPS frames the intellectual property system in terms of innovation, technology transfer, and public welfare. *TRIPS - Trade-Related Aspects of Intellectual Property Rights*, WORLD TRADE ORGANIZATION, https://www.wto.org/english/tratop_e/trips_e/trips_e.htm (last visited June 17, 2024).

⁹⁴ The Memorandum of Understanding is an understanding between the United States Agency for International Development and the Ministry of Commerce of the People's Republic of China regarding strengthening of development cooperation and establishing communication between the United States and China *Memorandum of Understanding on U.S.-China Development Cooperation*, USAID, <https://www.usaid.gov/document/memorandum-understanding-us-china-development-cooperation> (last visited June 19, 2024).

⁹⁵ The World Trade Organization is the "only global international organization dealing with the rules of trade between nations." *What is the WTO?* WORLD TRADE ORGANIZATION, https://www.wto.org/english/thewto_e/whatis_e/whatis_e.htm (last visited June 18, 2024).

⁹⁶ See *The Digital Millennium Copyright Act*, *supra* note 19.

through its archival materials, and George Thuronyi in particular.⁹⁷ This is a picture of Marybeth teaching what I think is an internal Copyright Office class, which was just mentioned. Over to the video.

Marybeth teaching on video: What's the purpose according to the Constitution of copyright statute? What's it supposed to do? Who is it supposed to benefit? The public. Okay, the public. By how? How do you do that? By encouraging artistic creation. It's gonna encourage people to sit down and spend their time writing. The wealth of our civilization is what people write. That's what advances civilization. The artwork, the music, the philosophy books, all of that is what makes a great civilization. So, we want to encourage that. Most people are not independently wealthy. Most people do not have patrons, like Mozart did, who paid him to do things, at least in this day and age. There's a few people, but not most.

So, therefore, what we have to do is somehow give them an economic incentive so that they can spend their time writing, and that's why we have a copyright law. So, if you look at it, it's two-pronged. We definitely want to encourage the writings of authors. And we recognize that in order to do that, which is to benefit society, there must be some rights granted to authors so that they will get some economic compensation, and that they will have some control over what they write. Because what happens if there are no rights? What if the work is in the public domain? What happens? What if there was no copyright law?

Authors are not encouraged to write because they feel they're being ripped off, and they probably are. And a vicious cycle starts, and there's no way to stop it then.

Take it one step. What happens? Say I write a work. And I go to a publisher, and I say, "Would you publish my work?" but there's no copyright. What's his problem with that? Peter? That's right. He could be the 14th. He could be the first. Even if he was the first, as soon as he got it out there, after he spent the time, the money, the editorial discretion that he has in making it so that the public wants to read, the publication costs, the printing costs, the advertising costs, after he does all of that, somebody can come behind him and save all of that expense and bring it out immediately.

So, it's not too attractive for most publishers to do that, not to have any rights in it. So, that was a recognition that you've gotta give them some rights. There's gotta be some control. Otherwise, not only does the author not get paid, but there

⁹⁷ George Thuronyi is the deputy director of the Office of Public Information and Education for the Office. See *George Thuronyi*, COPYRIGHT.GOV, <https://www.copyright.gov/about/leadership/george-thuronyi.html> (last visited June 25, 2024). He has worked in the Office since 1999 and has been integral to the community engagement and education objectives. *Id.* He also designed the first "web-based" copyright catalog, catapulting the Office into the digital world and allowing millions to easily access copyright records. *Id.*

is no incentive for the publisher, who is really the distributor, to get involved in the act.

Maria Pallante: Okay. Everybody dry your eyes after that. I now want to invite our professors to turn your cameras on. We're so fortunate to have our distinguished next group of people that not only knew Marybeth well but no doubt studied her record of work and continued to reference it and were very important to her. The academy was always very important to Marybeth, and she herself tried to teach whenever she could. So, we're gonna start with Bob Brauneis, then Paul Goldstein, June Besek, David Nimmer, and Lolly Gasaway. And although you don't need an introduction, I'm nevertheless going to ask you to please introduce yourselves. Over to you, Bob.

Bob Brauneis:⁹⁸ Thanks, Maria. So, yeah, I'm Bob Brauneis. I'm a professor of law at [George Washington University] where I teach, among other things, copyright law. Dear Marybeth, since you always seemed to treat everyone you met as a person deserving respect and directness, I thought I'd present my tribute to you in the second person. I don't know whether you can hear this, but I hope you can. What I really wanna tell you is that you are a hero to me.

You may only have been the second-longest serving register of copyrights, although I've heard that Thorvald Solberg, the first and longest-serving register back in the early 20th century, actually spent long stretches on leave.⁹⁹ However, you were definitely the register with the longest and broadest experience in the Library of Congress and Copyright Office before you ever became Register. One of my prized possessions is a copy that you autographed of your General Guide to the Copyright Act of 1976, that Richard Dannay and Eric Schwartz have already mentioned.¹⁰⁰

You were there at the beginning, and you wanted to use your skills as a teacher as well as a lawyer to introduce everyone to what was then a radically new law. That was back in 1977. And over the ensuing three and a half decades, you only deepened your expertise in U.S. law, in international law, in Copyright Office procedure, and in the people associated with all of those.

⁹⁸ Robert Brauneis is a Michael J. McKeon Professor of Intellectual Property Law, Co-Director of the Intellectual Property Law Program, and Co-Director of the Dean Dinwoodey Center for Intellectual Property Studies at George Washington Law. Brauneis is also a Member of the Managing Board for the Munich Intellectual Property Law Center and a Trustee of the Copyright Society of the USA. He previously served as the inaugural Abraham L. Kaminstein Scholar in Residence at the United States Copyright Office. *Robert Brauneis*, GW LAW, <https://www.law.gwu.edu/robert-brauneis> (last visited June 17, 2024).

⁹⁹ Thorvald Solberg was the Register of Copyrights from 1897 to 1930. *See Thorvald Solberg, 1897-1930, U.S. COPYRIGHT OFFICE*, <https://www.copyright.gov/about/register/solberg/solberg.html> (last visited June 25, 2024).

¹⁰⁰ *See GEN. GUIDE TO THE COPYRIGHT ACT OF 1976, U.S. COPYRIGHT OFFICE (1977)*, <https://www.copyright.gov/reports/guide-to-copyright.pdf>.

In short, you knew everything there was to know about copyright, and you knew everyone there was to know. Yet you carried that exhaustive knowledge lightly, and you dispensed wisdom with an authentic Rhode Island accent and an infectious laugh that I personally could not get enough of.

When you came to study here at GW Law in the late 1960s, you had at least two strikes against you. You were in a distinct minority as a woman, and you were working at the same time you were going to school. I would have completely understood if that experience and related career experiences had made you a little defensively imperious. But by some miracle of character, you were always the opposite of imperious. You were open and warm and modest, whether, as others have mentioned, whether you were talking to Orrin Hatch¹⁰¹ or Howard Coble¹⁰² or a grade-school student.

I was always tickled that you were proud to be a GW Law alum. I was tickled because the balance of pride should be flowing in the opposite direction, and it is. We at GW Law could not be more proud to count you as one of our most illustrious alums. And personally, I'm deeply grateful to have counted you as a friend and as a model of how to live life and how to guide a large agency through momentous times while retaining your humanity, your humility, and your humor. For that and for everything, thank you. And with that, I have the privilege of yielding to Professor Paul Goldstein.

Paul Goldstein:¹⁰³ Thank you very much, Bob. And thank you, Maria, for including me in this extraordinary, really inspiring tribute to Marybeth Peters. For the record, I teach copyright law here at Stanford Law School. But, in addition to being a teacher – and I suspect, like the other law teachers on this panel – I have also been very much a student of Marybeth's on matters of both domestic copyright law and international copyright law.

It was, I suppose, the sparkle in Marybeth's eye whenever she spoke of copyright that first drew me to her, but I soon discovered in our relationship the depth and range of Marybeth's commitment to this field that connects all of us here. Marybeth practiced at the very highest level of public service. She was an official who could keep copyright's most central objects in view, and yet, at the

¹⁰¹ Orrin G. Hatch is the Former Senator of Utah, and the longest serving Senator in Utah history (1977-2019). ORRIN G. HATCH FOUNDATION, <https://orrinhatchfoundation.org/in-memoriam> (last visited June 17, 2024).

¹⁰² Howard Coble is the Former Representative of 6th District of North Carolina (1995-2015). *Representative Howard Cole*, CONGRESS.GOV, <https://www.congress.gov/member/howard-coble/C000556> (last visited June 17, 2024).

¹⁰³ Paul Goldstein is the Lillick Professor of Law at Stanford Law School. Goldstein is the author of a five-volume treatise on U.S. copyright law and a one-volume treatise on international copyright law. In 2015, Goldstein was inducted into the IP Hall of Fame. He also serves as Of Counsel at Morrison & Foerster. He previously served as Chairman of the U.S. Office of Technology Assessment Advisory Panel on Intellectual Property Rights in an Age of Electronics and Information. *Paul Goldstein*, SLS DIRECTORY, <https://law.stanford.edu/paul-goldstein/> (last visited June 17, 2024).

same time, she possessed the attention to detail and the craft required to navigate copyright through Washington's treacherous tidepools.

The example that stands out for me goes back to 2001 and the claim by Jonathan Tasini and his fellow freelance writers against *The New York Times* and others that the writers had not transferred to *The Times* the right to exploit their works through digital and other databases.¹⁰⁴ (I should add by way of full disclosure that I worked on behalf of Tasini and the National Writers Union in that case.)

The Supreme Court granted *certiorari* in Tasini, but Marybeth was rebuffed in her effort to enlist the Justice Department to her side in supporting the writers' claim before the Court. How, then, did it happen that Marybeth's strong views on the subject of authors' rights, and specifically those of Tasini and his fellow writers, reached the Supreme Court and ultimately found their way into Justice Ruth Ginsburg's majority opinion endorsing the writers' claim?¹⁰⁵

Well, it seems that James McGovern,¹⁰⁶ a congressman from Massachusetts, whose name I had not previously associated with copyright, decided to solicit the views of the Register of Copyrights on the Tasini case.¹⁰⁷ I don't know how the idea got into his head to solicit her views. But it was Marybeth's views, in the form of a letter of response to the congressman, that somehow found their way into the Congressional Record, where they appeared a month and a half before the Supreme Court Argument.¹⁰⁸

Needless to say – again, somehow – the Congressional record was cited to the Court,¹⁰⁹ and Justice Ginsburg cited Marybeth's letter twice in footnotes to her opinion for the majority upholding the writers' claim. In the first footnote, the Justice quoted Marybeth's invocation of Barbara Ringer's famous observation

¹⁰⁴ Jonathan Tasini and other members of the National Writers Union sued the New York Times, LexisNexis, Newsday, and University Microfilms for copyright infringement arising from the reproduction and distribution in electronic media of articles that they had licensed to be published in print form. *N.Y. Times Co. v. Tasini*, 533 U.S. 483 (2001). The Supreme Court held for plaintiffs and upheld the rights freelance writers whose works were published in periodicals and then provided by publishers to electronic databases without explicit permission. *Id.*

¹⁰⁵ *N.Y. Times Co. v. Tasini*, 533 U.S. 483, 506 (2001). (“We conclude that the Electronic Publishers infringed the Authors’ copyrights by reproducing and distributing the Articles in a manner not authorized by the Authors and not privileged by § 201(c).”)

¹⁰⁶ James McGovern is the current Representative for the 2nd District of Massachusetts. He was elected in 2013. *Representative James P. McGovern*, CONGRESS.GOV, <https://www.congress.gov/member/james-mcgovern/M000312> (last visited June 17, 2024).

¹⁰⁷ *Tasini*, 533 U.S. at 483.

¹⁰⁸ Letter from M. Peters to Rep. McGovern, reprinted in 147 Cong. Rec. E182 (Feb. 14, 2001).

¹⁰⁹ *Id.*; *Tasini*, 533 U.S. at n.3.

that the 1976 Act represented a break with the 200-year-old tradition that has identified copyright more closely with the publisher than with the author.¹¹⁰

The second footnote reference from Justice Ginsburg was – and I’m quoting again – that the Register of Copyrights has argued “vigorously” – did Marybeth ever argue anything *less* than vigorously? – that that the databases were engaged not only in reproduction and distribution, acts covered by Section 201(c)’s default privilege, but also in public display of the underlying works, which was not covered by the provision.¹¹¹ It must have been a disappointment to Marybeth that the Court did not decide the public display point for which she had argued in her letter.

But that Marybeth had argued so vigorously for, and cast so bright and searching a light on this new right of authors, this display right, whose importance Marybeth knew would only grow in the Internet Age – was but another example of Marybeth’s public service in the cause of copyright and of author’s right at the very highest level. Let me turn it over to June.

Maria Pallante: June, you’re up.

June Besek:¹¹² Okay. So, first of all, I’m June Besek, and I was the executive director of the Kernochan Center for Law, Media, and the Arts at Columbia Law School until I retired a few months ago.¹¹³ And I want to begin with some comments that Professor Jane Ginsburg because, unfortunately, she wasn’t able to be here today.¹¹⁴

She says, “Marybeth lent her great distinction and vast experience to the Copyright Office. Largely homegrown, she proceeded through the echelons from the Office, from examiner to register. She combined mastery of technicalities of the copyright law with a never-failing appreciation of the law’s importance to creators. Protecting and promoting creativity remained her lodestar throughout her exceptional career in copyright.”¹¹⁵

Now, I should say that my comments are not quite as succinct as Jane’s, but I will try to keep them short as I know there are a lot of people that follow me. But first, Marybeth was a true expert in copyright. She knew the 1909 Act.¹¹⁶ She knew the 1976 Act, everything in between, everything afterwards.¹¹⁷ And this is partly what made her so effective on both the national and international stage. And at the same time, she was always willing to be a resource of for us. I can

¹¹⁰ *Tasini*, 533 U.S. at n.3.

¹¹¹ *Id.* at n.8.

¹¹² June Besek, *supra* note 25.

¹¹³ *Id.*

¹¹⁴ Jane C. Ginsburg is the faculty director of Kernochan Center for Law, Media and the Arts at Columbia Law School. See *Jane C. Ginsburg*, COLUMBIA LAW SCHOOL, <https://www.law.columbia.edu/faculty/jane-c-ginsburg> (last visited June 25, 2024). She is a renowned authority on IP law and the daughter of Ruth Bader Ginsburg. *Id.*

¹¹⁵ *Id.*

¹¹⁶ Copyright Act of 1909, *supra* note 70.

¹¹⁷ Copyright Act of 1976, *supra* note 29.

remember going to her when I had a particularly vexing question, and she was able to set me in the right direction.

Another thing, and I admired Marybeth for this, but she managed the Copyright Office with grace, with humor, with common sense. She was Register in a really challenging time. For one thing, as the law confronted the digital age, or maybe it was the digital age that confronted the law. I'm not sure which. But, the copyright field has become more polarized, and some people have become less respectful to others and even to the Office. And this is rather disheartening.

I have to say that most of this has surfaced since Marybeth's time, but it was there before. And for those of us who've been in the field for a long time, it's discouraging. Also, Marybeth began the process of moving the Copyright Office into the digital age, and that is a real test, as she found out, and all of the Registers since her have as well. But you face political, and financial, and labor union issues when you go down that road. We often forget that the Register's job isn't purely copyright law, but it entails the day-to-day operations of a very big office.

So, Marybeth was a mentor and a friend to me. I met her early in my career in the runup that the U.S. had toward accession to the Berne Convention.¹¹⁸ So, this is some 35 years ago now. She was so friendly and approachable. It was great. It was refreshing because she was willing to deal with me and other junior associates and not just our senior colleagues, which in those days were mostly men. And so, it was just very confidence inspiring.

And then, finally, Marybeth was an incredibly warm and kind person. She was always fun to be with. This was especially true at meetings and conferences when her role was done, and she was able to just enjoy herself for a bit. So, I just have such fond memories of things like sharing a boat ride on the Danube or dancing at a Hungarian folk concert in Budapest. And then we marched – or maybe meandered would be a better word – in a parade in Oaxaca, Mexico.

And then we had our annual trip into Bolton Landing to go to Ben & Jerry's with Judy Saffer because we all had birthdays in close proximity in June.¹¹⁹ So, we always had to celebrate together. So, everything was more fun because Marybeth was there.

One thing that I think she was blessed with was the ability to find humor in many things, including that she had a wonderful ability to laugh at herself, which many people do not have that ability. I just feel like it's sad to think about Marybeth, but I just think we were so lucky to have her with us, and I'm very glad of that. And with that, I will turn it over to David Nimmer.

¹¹⁸ The Berne Convention was adopted in 1886 and grants authors, musicians, poets, etc. with protection and rights to their own work. *See* BERNE CONVENTION FOR THE PROTECTION OF LITERARY AND ARTISTIC WORKS, WIPO, <https://www.wipo.int/treaties/en/ip/berne/> (last visited June 19, 2024).

¹¹⁹ *See* Judy Saffer, *supra* note 21.

David Nimmer:¹²⁰ Thank you so much, June. I'm David Nimmer. I teach copyright at UCLA. Art Levine mentioned it was 1966 when Marybeth joined the Copyright Office, specifically February 14th of 1966, the same day that a lawsuit was filed, which resulted in Judge Frederick van Pelt Bryan issuing an injunction against publication of a copyrighted work with no permission at all from the copyright owners.¹²¹ Now, that case is noteworthy because the Second Circuit reversed under the caption of *Rosemont Enterprises v. Random House*.

I'm sure that most remember that case as the one involving the unauthorized biography of Howard Hughes.¹²² First, he threatened the copyright owner, "I will make trouble for you."¹²³ But when that did not work, he did what any reclusive billionaire would do under the circumstances—he bought the magazine that owned the underlying articles which formed the basis of the book. So, he became the copyright owner in order to suppress publication.¹²⁴

Well, that was too much for the Second Circuit, which invoked the public interest and ruled that the purposes of copyright law did not favor the copyright owner in this case. It's a sensibility that has emerged from time to time in subsequent cases, most recently *Garcia v. Google*, the Ninth Circuit's infamous case involving *Innocence of Muslims*.¹²⁵ It's a wonderful case to bring up the counterpoint that marked Marybeth's career because she was an unfailing champion of copyright law and the rights of authors.¹²⁶

But as in that segment that you saw her giving education to the Copyright Office, she went back to first principles. What is its purpose? "To promote the

¹²⁰ Named one of "The 25 Most Influential People in IP" by The American Lawyer, David Nimmer is widely recognized as one of the leading experts in copyright law. See *David Nimmer*, UCLA LAW, <https://law.ucla.edu/faculty/faculty-profiles/david-nimmer> (last visited June 19, 2024). One of his highest achievements is authoring *Nimmer on Copyright*, which is the most popular reference treatise in the IP field. *Id.* This treatise has even been cited by the Supreme Court on numerous occasions. *Id.*

¹²¹ 366 F.2d 303 (2d Cir. 1966), cert. denied, 385 U.S. 1009 (1967).

¹²² Rosemont Enterprises commenced this action for a book entitled *Howard Hughes – A Biography of John Keats* due to its copyright ownership of a series of articles entitled *The Howard Hughes Story*. *Id.*, at 303. Howard Hughes was a public figure primarily in the aviation and motion picture fields, who shunned the limelight. *Id.*, at 305.

¹²³ Rosemont Enterprises' attorney *actually* warned Random House that Hughes himself was vehemently opposed to the publication of this book, "and would make trouble if the book was published." *Id.*, at 305.

¹²⁴ *Id.*

¹²⁵ *Garcia v. Google* started when Cindy Lee Garcia sued Google and YouTube to take down *Innocence of Muslims*, an anti-Islamic short film. The District Court denied Garcia's preliminary injunction, and a Ninth Circuit panel reversed it on appeal and ordered all copies of *Innocence of Muslims* to be taken down. *Id.* Later, the Ninth Circuit en banc rejected the panel's decision. 743 F.3d 1258 (9th Cir. 2014), *amended*, 766 F.3d 929 (9th Cir. 2014), *vacated*, 771 F.3d 647 (9th Cir. 2014), *substituted opinion*, 786 F.3d 733 (9th Cir. 2015) (*en banc*).

¹²⁶ For more commentary on that case, see David Nimmer, *Innocence of Copyright: An Inquiry into the Public Interest*, 63 J. COPYRIGHT SOC'Y 367 (2016).

progress of science and the useful arts.”¹²⁷ So, on occasion, the opposite sensibility must prevail.

Now, remember when the Copyright Society of the USA had its midwinter meeting in Santa Barbara, California?¹²⁸ After both of us [David and Marybeth] finished our presentations, I was asking Marybeth about the most contentious issue on the calendar and how she was reacting to the various sides. So, she explained to me that the proponents of this certain initiative had labeled her – and then she quoted a whole string of epithets of what they called her. But not to be outdone, the opponents on the other side added their own string of insults. And so, she concluded her answer to my question by telling me, not with her trademark laugh but rather with a sly twinkle in her eye, “The only thing I haven’t been called yet is the Whore of Babylon.” Well, I appreciated her biblical allusion and I appreciated what June just talked about, namely her own self-deprecating style, because she took the field with extreme seriousness, but not herself necessarily.

So, I am so grateful to the organizers of this panel for putting it together and for inviting me to commemorate the life of this champion of copyright law, doctrine, and the people involved in it for years and decades. Thank you so much. And with that, I will turn the gavel over to Lolly.

Lolly Gasaway:¹²⁹ Hi, everyone. I’m Lolly Gasaway, most recently retired from the University of North Carolina, where I was the Director of the law library for 22 years and taught copyright law, not only here but previously at the University of Oklahoma.¹³⁰ I first met Marybeth in the mid-1970s. It’s sort of shocking to realize that was almost 50 years ago. And Marybeth and I just hit it off immediately. We were both copyright nerds. That was clear. But besides that, we did like to have a good time and laugh, something many of you have mentioned about her.

I think my first contact with Marybeth was when she was a speaker at a library association meeting. At that time, I was just coming in as chair of the Special Libraries Association Copyright Committee.¹³¹ So, Winston, you were not the

¹²⁷ U.S. CONST., *supra* note 70.

¹²⁸ The Copyright Society’s Midwinter Meeting is the premier annual conference for copyright updates and discussions. *See* 2024 MIDWINTER MEETING, U.S. COPYRIGHT SOCIETY, https://copyrightsociety.org/mw2024/#anchor_agenda (last visited June 25, 2024).

¹²⁹ Laura (“Lolly”) Gasaway is a leading academic in the fields of art law and copyright law. *See* Laura N. Gasaway, University of North Carolina School of Law, <https://law.unc.edu/people/laura-n-gasaway/>. She started teaching at the University of North Carolina (“UNC”) in 1985 as the Director of the Law Library and Professor of Law. *Id.* During her time at UNC, she published numerous law review articles on law library and copyright, and she served on many accreditation teams for the ABA. *Id.*

¹³⁰ *Id.*

¹³¹ The Special Libraries Association is a nonprofit, leading resource for specialized librarians, information professionals, and researchers. *See* ABOUT SLA, SPECIAL LIBRARY ASSOCIATION, <https://sla.org/page/About>.

only librarian there. Me, too. With Marybeth's education background, she was very interested in libraries and often wanted to ask me about specific library practices relating to copyright, so, we talked about copyright, but we also talked about libraries.

In those early days, publishers were pretty negative about libraries and librarians. Maybe they still are today, but I pretend they're not. And having Marybeth's support for the librarian, for interlibrary loan, and then for dealing with the digital environment was extraordinarily important.¹³² Like everyone else, I found Marybeth to be extremely warm but also so knowledgeable. Through the years, we stayed in touch and continued to work on library issues together. Through her, in fact, I met many of you.

We stayed in touch, as I said, and I thoroughly appreciated her as an expert and a friend. She had a unique ability to turn professional colleagues into lifelong friends, and I think that was quite a skill. Later, Marybeth and I served together on the Board of Directors of the Copyright Clearance Center, and we were sad when she retired from that.¹³³ I'm still there and I miss Marybeth at those meetings.

I loved her smile, her laughter, and sharing stories with her. I think we all miss her. I know I certainly do. Next is a video from Mitch Glazier.

Mitch Glazier (on pre-recorded video): Hi there - Mitch Glazier here at RIAA headquarters. I'm so sorry that I can't be with you today and so glad that everybody is gathering to honor the memory of Marybeth and all the contributions that she's made to our culture, to artists and creators, and to our country. Her contributions will probably never be fully appreciated, but what everybody is doing today is a step in the right direction of remembering how important she has been to not only all of us in the community, but also to the country at large. I worked with Marybeth mostly when I worked on Capitol Hill on the House Judiciary Staff from 1995 to 2000. I will never forget her intelligence, her guidance, her expertise, her influence, and her laugh. Who could forget her laugh? It broke up hearings. It made Members of Congress feel comfortable, and oddly it gave you the reassurance that somehow everybody was gathering to do the right thing. She just had that magic. So, I'm so thrilled for this gathering and what comes out of it will serve to honor her memory and all those people who love her. Love you, Marybeth.

Maria Pallante: Well, thank you, everybody. Thank you to all the professors for joining us today. It makes a huge difference to have you here. And I'm gonna turn it now over to my co-host, Regan Smith.

¹³² *Id.*

¹³³ The Copyright Clearance Center (CCC) is a voluntary, leading information solution provider to various organizations. See ABOUT CCC, COPYRIGHT CLEARANCE CENTER, <https://www.copyright.com/company-about/> (last visited June 19, 2024). CCC advocates for copyright around the world, focusing on educational programs and content, software, and professional services for customers. *Id.*

Regan Smith: Thank you. Thank you, all. If we can have the next group of speakers, turn their cameras on to be ready. So, this is Jule Sigall, Michele Woods, Mary Rasenberger, Catie Rowland, Jacqueline Charlesworth, Nancy Wolff, and Fritz Attaway. We're going to hear from another set of Marybeth's key colleagues and friends. And before we do, to start that, we will have, as Lolly mentioned, a recorded message from Mitch Glazier, who was unable to show up live today. So, if we could, turn to the video.

Mitch Glazier (on pre-recorded video): Hey, Copyright Society. Mitch Glazier here at RIAA headquarters.¹³⁴ And I'm so sorry that I can't be with you today and so glad that everybody is gathering to honor the memory of Marybeth and all the contributions that she's given to our culture and to artists and creators, and our country. Her contributions will probably never be fully appreciated, but what everybody is doing today is a step in the direction of remembering how important she is to all of us in the community but also to the country at large.

I worked with Marybeth mostly when I was on the Hill on the House Judiciary Staff from 1995 to 2000. I will never forget her guidance, her expertise, her influence, and her laugh. Who could forget her laugh? It broke up hearings. It made members feel comfortable, and oddly it gave you a reassurance that somehow everybody was gathering together to do the right thing. She just had that magic. So, I'm so thrilled that this gathering and what comes out of it will serve to honor her memory and all those people who love her. Love you, Marybeth.

Regan Smith: Thank you. And now we will have Jule Sigall, please.

Jule Sigall:¹³⁵ Thanks, Regan, and thanks to Maria and the Copyright Society for including me in this. It's an honor to be a part of this group. So, there's three things about Marybeth that I wanted to highlight in my experience with her, some of which you've heard already. First, she really was, as Karyn Temple said, a true copyright nerd.

I can remember one day in the Copyright Office when I was an associate register.¹³⁶ We spent a few hours deep in the dark caves of the Copyright Act trying to figure out why the Section 304 renewal right seemed to pass per capita, whereas the Section 203 termination right seemed to pass per stirpes to

¹³⁴ Recording Industry Association of America (RIAA) has headquarters in Washington, D.C. *RIAA HQ*, RIAA, <https://tv.riaa.com/> (last visited June 17, 2024).

¹³⁵ Jule Sigall worked as an Associate General Counsel for Copyright for Microsoft, before retiring in September 2023. *See Jule Sigall*, LINKEDIN, <https://www.linkedin.com/in/jule-sigall/> (last visited July 1, 2024). Before that, he was an Associate Register for Policy & International Affairs. *See Jule Sigall*, BERKELEY LAW, <https://www.law.berkeley.edu/research/bclt/past-events/2014-conferences/april-2014-the-next-great-copyright-act/speakers/jule-sigall/> (last visited June 19, 2024). He had also been a principal drafter for the Office's Report on Orphan Works, testifying before Congress.

Id.

¹³⁶ *Id.*

descendants of authors and copyright owners.¹³⁷ And it's one of those great copyright puzzles. And you've seen Marybeth teach.

Her infectiousness for that kind of puzzle to sort out was always just the best part of working for her, as David Carson has mentioned, just to dive into that really try to figure it out and understand how it all fits into the whole copyright system was such a great, great experience.

The second thing which other people have mentioned is that behind every one of those great copyright puzzles, there were people. And she loved people and copyright. She loved authors. She loved writers. She loved musicians. She loved librarians, researchers, teachers, law students, law professors; and she was willing to talk to anyone about copyright law. And I remember David Carson, and I would often probably roll our eyes when... I don't remember a time in my four years at the Office that Marybeth turned down a speaking opportunity. She always accepted the chance just to talk about copyright.

Now, sometimes, she sent one of us to speak instead of attending herself, and she once sent me to Muncie, Indiana to talk about copyright law. And I remember her telling me, "You not only get to go to Muncie, Indiana. You get to go to Muncie, Indiana, to talk about copyright. And what could be better than that?"

And then anytime you got a chance to trail her at WIPO at a General Assembly's meeting or the Copyright Society annual meeting at Lake George, it was just the best to see how many people knew of her, felt that she was a dear friend and could spend the time talking to her and reminiscing about all the great and wonderful copyright things that they had done together. It was a real treat.

And I guess, lastly, I would say the third thing about her, which others have mentioned, is her optimism. Her optimism was just the best. And part of the reason she is willing to talk to everyone about copyright is she always thought something good would come out of that conversation. And it was just one of the most inspiring things to be around that optimism, and I will forever be grateful for her to just be optimistic about copyright and about what it meant for everyone. So, thank you again for this great chance to chat with you and remember Marybeth. And now I think I'm turning it over to Michele Woods.

Michele Woods: Yes, that's right. Thanks, Jule. And so happy to see so many friends of Marybeth's and was having a hard time thinking what to say about Marybeth, figuring coming this late in the lineup, there might not be much to add. But I did come to know Marybeth later than many here, and of course, I'd heard of her before I came to join her, Maria, and David in the Copyright Office following something later than Jule from Arnold and Porter.

I had some trepidation in coming to work for this legend after having only tagged along with Bob Garrett¹³⁸ for some meetings with this leader of the

¹³⁷ *Special Edition: Marybeth Peters, supra* note 54.

¹³⁸ Robert 'Bob' Garrett is a former partner at the Washington, D.C., office of Arnold & Porter LLP. Throughout his career, Garrett has practiced before the federal courts, the U.S.

copyright world, but she very quickly dispelled this impression or this hesitation with her modesty and humility when she asked me on the first day if I could please write her some clever remarks for digital exhaustion for [inaudible] [01:36:45], so she would not be intimidated by all those brilliant copyright academics. When I realized that she was serious, I knew I had nothing to fear, even though I had to think that perhaps the intimidation was on the other side.

And Marybeth immediately welcomed me into her world, as so many have described, introduced me to a whole cast of characters from her past and present in many aspects of her life. Took a little bit of time to figure out who was actually there, who was in the library, who was in Rhode Island, who was in the Congress. But when she took you in, she took you into her whole world.

And I remember after a few weeks in the Office, my mother died, and she very kindly supported me, including giving me one of her precious symphony tickets, because she was always a lover of music, as some others have mentioned. We started working with Marybeth, Maria, and David on fascinating topics from Google Books¹³⁹ to SOPA and PIPA¹⁴⁰ – perhaps shouldn't be mentioned, but it was an experience – the Marrakech Treaty.¹⁴¹

And I was in the Office when Marybeth retired and, true to form, told her classic stories about walking into the swimming pool and getting locked in the

Copyright Office, and the Copyright Royalty Board. *Q&A With Arnold & Porter's Bob Garrett*, MEDIA & ENTERTAINMENT LAW360 (Aug. 31, 2011), https://www.arnoldporter.com/-/media/files/perspectives/publications/2011/08/qa-with-arnold-porters-bob-garrett/files/publication/fileattachment/arnoldporterllpmediaentertainmentlaw360083111.pdf?rev=228a10cd5cb14d6c9f695cf09069b810&sc_lang=en&hash=F9F97B6D8931384240A040BBB0A64B2A.

¹³⁹ Google Books is a digital library available for anyone to access. Millions of books from libraries and universities around the world were scanned and uploaded. Many of these books are no longer printed or available for purchase. The public domain books can be downloaded for free, otherwise only the pages relevant to the search criteria can be viewed. *Google books*, STANFORD.EDU, <https://cs.stanford.edu/people/eroberts/courses/cs181/projects/2010-11/GoogleBooks/background.html> (last visited June 17, 2024).

¹⁴⁰ The Stop Online Piracy Act (SOPA) and the Protect IP Act (PIPA) were a series of bills that would have created a blacklist of censored websites. The bill was aimed at websites that allowed indiscriminate piracy, but the use of vague definitions expanded the bill to including hosting websites such as Dropbox, Etsy, Mediafire, etc. The bills were defeated by online campaigns that culminated in the Internet Blackout of January 2022. *SOPA/PIPA: Internet Blacklist Legislation*, EFF, <https://www.eff.org/issues/coica-internet-censorship-and-copyright-bill> (last visited June 17, 2024).

¹⁴¹ The Marrakesh Treaty was adopted on June 27, 2013 and began on September 30, 2016. The treaty made the production and international transfer of books for people with visual impairments or blindness easier by establishing limits and exceptions to traditional copyright law. *The Treaty*, WIPO, https://www.wipo.int/marrakesh_treaty/en_ (last visited June 17, 2024).

ladies' room, already referenced by David. Her love of dogs and of Maggie¹⁴² was also strongly apparent at that time. And, of course, Kate Spelman was instrumental in Maggie joining her life, and we all heard that story many times.¹⁴³

Marybeth encouraged me to follow the international route and to move to Geneva. She had spent a short time at WIPO and told me she would have wanted to stay longer, but she was needed back in Washington. When I think of Marybeth, I think of her great loyalty and her unique ability to bring people together just by being herself. Others have spoken about the way that Maria and David supported Marybeth and Maggie in the years after Marybeth left the Office.

And I remember even before she left the Office, when Maria had gone away for a short time to another role, Maria reminded me to be sure to buy cherries for Marybeth and make her eat them for her health. So, I did my best. This deep loyalty also drew people together. So, when I left the Office to go to WIPO, I found I had a wonderful supportive colleague in another loyal friend of Marybeth's, Gaun Hong, who is also on this call.¹⁴⁴ Gaun Hong had met Marybeth when she was an intern in the Copyright Office from China and became fast friends with Marybeth for many years after that.

And when I arrived at WIPO quite some years later, Gau Hong kindly said that she would draw me into the circle of that friendship, because a friend of Marybeth's was a friend of hers. So, Marybeth was looking out for me all the way to Geneva. And every time I return to D.C. from Geneva, many of us on this call, different ones at various times, would get together with Marybeth for a meal to hear her stories about the dogwalker and hear her wonderful laugh. And this continued for quite some time, even when it became clear she needed more support. There was a period where she was mixing me and Karyn up, but we didn't mind.

Everybody still enjoyed being together with Marybeth. And through the struggles that came health-wise and in other ways, we kept up this habit until... In my case, my final meal with Marybeth was actually with David and Fiona on New Year's Day, just before the pandemic.¹⁴⁵ And I remember well that she was still talking about Gau Hong and their plans to spend time together in retirement. So, she just never forgot a friend.

¹⁴² Maggie was Marybeth Peters' beloved Bedlington Terrier. *Official Obituary of Marybeth Peters*, DE VOL FUNERAL HOME, <https://www.devolfuneralhome.com/obituaries/Marybeth-Peters?obId=26015312> (last visited June 17, 2024).

¹⁴³ Katherine C. Spelman, *supra* note 69.

¹⁴⁴ Dr. Guan Hong Tang is a Director of Dual LLM in Commercial Law at Queen Mary University of London and has worked in academia since 1998. See Guan H. Tang, QUEEN MARY UNIVERSITY OF LONDON SCHOOL OF LAW, <https://www.qmul.ac.uk/law/people/academic-staff/items/tang.html> (last visited June 25, 2024). Prior to this, she researched information technology and intellectual property rights in China at Queen's University Belfast. *Id.*

¹⁴⁵ The 2020 COVID-19 Pandemic.

I also recall the wonderful 80th birthday party dinner organized in Baltimore by several on this call when she rallied to have a wonderful time with so many. And that's really, in my mind, a beautiful way to remember Marybeth. Now, I turn it over to Mary Rasenberger.

Mary Rasenberger:¹⁴⁶ Thank you, Michele. And I want to thank the Copyright Society, Maria, and Regan for organizing this. It's been just so beautiful and heartwarming to hear all of these stories and remembrances, and I think we all need it. As CEO of the Author's Guild,¹⁴⁷ I could talk about how much Marybeth championed authors' rights and all of her incredible accomplishments in protecting authors, which are immense, and we've heard about some of them. She liked to remind people that without creators and the copyright incentives for creators, there would be no arts. And as we just heard her say in the video, there would be no civilization.

But Marybeth was just an important person to me personally. She's still a role model for me. So, I wanna focus my remarks on Marybeth as an active mentor and friend to so many of us in the copyright community, and especially to women. She inspired and encouraged so many of us in our careers in copyright, which we've already heard about from a number of people. And like many others, I first met Marybeth through the Copyright Society. It was over 33 years ago. She was a larger than life, beloved, and joyous presence at the annual meetings, even before she became Register.

I remember when I was a shy junior associate, how friendly and welcoming she was even then. She was always interested in talking to junior lawyers and hearing our views, making us feel like we actually had something to contribute, as others have mentioned. And she would use causal conversations as an opportunity to teach anyone around about copyright and its importance to the arts. The first time I spoke at an annual meeting, even though I was a complete nobody, she went out of her way to find me and tell me I'd done a nice job. And that was the kind of person Marybeth was.

She was so different from the men I had worked for, and they were all men. This was the late '80s and '90s. She was also different from the senior women in the firms I'd worked at that tended to be very buttoned up. In those days, we all

¹⁴⁶ Mary Rasenberger is the Executive Director of the Author's Guild and Authors Guild Foundation. Rasenberger is on the Council of American Bar Association's Intellectual Property Section, a Founder of Copyright Awareness Week, an Advisor to the Executive Committee of the Copyright Society of the USA, and an Advisor to the American Law Institute's Restatement of Law, Copyright. She is also a Lecturer in Law at Columbia Law. Rasenberger previously worked for the U.S. Copyright Office and Library of Congress as a senior policy advisor and program director for the National Digital Preservation Program. She was also a partner at Cowan, DeBaets, Abrahams & Sheppard and Counsel at Skadden where she specialized in publishing, entertainment, media, and creators. *Mary Rasenberger*, COLUMBIA LAW SCHOOL, <https://www.law.columbia.edu/faculty/mary-rasenberger> (last visited June 17, 2024).

¹⁴⁷ See The Authors Guild, *supra* note 36.

felt like we had to be very serious and act like men to the extent we could. And Marybeth, by contrast, was completely female, completely herself. She was warm, funny, smart, and often with a twinge of sassy.

She was so fun to talk to about copyright. She had such a passion for it, and that was infectious. And Marybeth was so approachable – that bear hug that Karyn spoke of – that in 2002, when I saw a notice in a Copyright Society publication about a policy and international job opening at the Copyright Office, it sounded like my actual dream job. I never knew such a job could exist. I was so excited. I picked up the phone, even though it was almost 7:00 p.m., and called her. And lo and behold, Marybeth picked up, and she actually remembered me from the Copyright Society. I think she remembered everybody in the community.

We ended up having this interesting conversation about copyright. I loved working for Marybeth. I think everyone did. She made work exciting and fun. David spoke about that. And when she laughed, which was often, the entire register suite could hear it, and I think we all laughed along silently from our offices. That was really powerful.

We knew we could go talk to her about anything anytime and that she would provide wise and fair advice. As David and others mentioned, even though she knew more about copyright than anyone else, she sought our advice and was really interested in and valued our opinions. She had a completely open-door policy, even though she was always busy.

She usually worked late, as I did. And in those evenings, she always welcomed a visit. I feel like I got the best of Marybeth in those evening chats. Not only would she answer my myriad questions, [but] she'd teach me about the history and the intricacies of copyright law, and she regaled me with stories about the past goings-on or sometimes current in the copyright office and the community, that copyright gossip that Richard spoke about.

And she would talk about her mishaps, which were not all that infrequent. She always thought they were just hilarious. Those were life lessons and a lesson in not taking ourselves too seriously.

Marybeth loved animals, as did I. And one evening in one of those conversations, I somewhat joking told her I was gonna go work to help baby elephants in Africa, and she took me seriously. She jumped on me saying, "Oh, no, no, no. You cannot leave copyright law." To Marybeth, that was a mortal sin.

Marybeth understood her role in the copyright world was bigger than herself. She left a legacy of so many copyright lawyers behind her. Look at everybody on the Zoom today. Marybeth felt mentored by Barbara Ringer.¹⁴⁸ And as a teacher, she understood the importance of mentoring. And now, I think it's up to all of us

¹⁴⁸ Barbara Ringer served as the 8th Register of Copyrights from 1973-1980, and was the first woman appointed to the position. See *generally* *Barbara Ringer*, U.S. COPYRIGHT OFFICE, <https://www.copyright.gov/about/registers/ringer/ringer.html> (last visited June 18, 2024).

to pass on Marybeth's spirit and love of copyright and creative arts. I'm gonna turn it over to Catie Rowland now.

Catie Rowland:¹⁴⁹ Thank you, Mary. Really, I appreciate it. It's so nice to hear from everyone today and hear everyone's experiences. I just want to say a few brief words about Marybeth today. So, there is no doubt that her unparalleled experience and intellectual curiosity benefited the people lucky enough to work with her, the government she served, and the copyright system overall. You can see this from the comments you already heard today.

One of her many gifts, as you've heard, was her ability to easily communicate often complex copyright principles. To be smart and knowledgeable is one thing, but to be able to share that intelligence and knowledge in a way that truly resonates is an entirely different and rare quality. She explained copyright in many ways, from teaching copyright office employees about the 1976 Act, which you saw a little clip of earlier, to testifying before Congress,¹⁵⁰ which I dare say is also a method of teaching.

Marybeth drew crowds. Her annual luncheon speech in D.C. was often sold out. And she delivered news about copyright in a way that people remember, in part because of her delivery, and in part because she was just so insightful. Throughout these experiences, she was quick to make a point.

For example, when writing about constitutional challenges, she detailed the complex background and then pivoted saying, "You might ask, 'What does all of this have to do with constitutional law governing copyright?' And the answer is more than you would think." With those few words, she grabbed the reader's attention and steered them toward a clear answer to a complicated question.

Marybeth often shared stories. You've heard about some of them today about her travels while engaging in international copyright discussion, and these stories often include humorous elements, to say the least. While some might think her ability to spin a yarn is somehow distinct from her expertise and ability to shape copyright thinking, it's actually quite the opposite. Her way with words and engaging personality helps all remember what she had to say about copyright, and what she had to say was incredibly valuable.

I was lucky to be able to work with Marybeth and to now work at CCC, where she held a board seat after her retirement from the Copyright Office.¹⁵¹ At the Copyright Office, she went out of her way to make me feel comfortable, even

¹⁴⁹ Catie Rowland is the current Vice President and General Counsel of the Copyright Clearance Center. Previously, Rowland was the Associate Register of Copyrights and Director of the Office of Public Information and Education at the U.S. Copyright Office. *Catherine Zaller Rowland*, LINKEDIN, <https://www.linkedin.com/in/catherine-zaller-rowland-5940918/> (last visited June 17, 2024).

¹⁵⁰ *Special Edition: Marybeth Peters*, *supra* note 54.

¹⁵¹ After retiring, Peters entered private practice and sat on the board of directors of the Copyright Clearance Center until her eventual, final retirement. *Special Edition: Marybeth Peters*, *supra* note 54.

though I was but one of many lawyers. I soon learned that I was not alone. She held her door open to so many people at the Copyright Office, which was remarkable. She was the head of the agency, and here she was, welcoming us all in. This openness helped us grapple with and learn copyright in a deep and meaningful way.

And as I have watched the others speak today, I am yet again struck by how Marybeth not only helped us all individually, but how she helped shape generations of lawyers to be better participants in the copyright system. At CCC, she was a treasured member of the board. When she was named to the board, Marybeth said that she was looking forward to being part of CCC's growing thought leadership, policy efforts, and presciently observed that licensing has always been important, but it will only become more so in the future.

During her years on the board, Marybeth served with distinction as a fiduciary of copyright principles and as a mentor and thoughtful to CCC colleagues. CCC's president and CEO have noted that Marybeth's enormous legacy was just outsized and explained that she was so fortunate to have known her and to have had the opportunity to learn from her and to laugh with her.

Today, I have tried to provide a glimpse into Marybeth's vast contributions to copyright, but it is nearly impossible to truly capture her full imprint. Her legacy is not simply written documents and commemorated in speeches and conferences. Instead, it lives on in every person who worked with her and learned from her, enrichment for us all.

When faced with a question of how much Marybeth impacted copyright, I think I'll borrow some of her words in response. The answer is more than you would think. And with that, I will turn it over to my friend, Jacqueline Charlesworth.

Jacqueline Charlesworth:¹⁵² Thank you, Catie. And I'm so very honored to be here today in the company of all these amazing copyright lawyers and fans of Marybeth. Much has already been said about Marybeth's historic career. So, I thought I would share a couple of personal anecdotes that demonstrate Marybeth's profound impact on those who were lucky enough to have known her.

¹⁵² Jacqueline Charlesworth served as General Counsel and Associate Register of Copyrights from 2013 to 2016. During her tenure at the Copyright Office, she oversaw the preparation of two influential reports, *Copyright Small Claims* (2013) and *Copyright and the Music Marketplace* (2015), both of which set the stage for significant amendments to the Copyright Act. After leaving the Copyright Office and reentering private practice, Charlesworth was instrumental in developing and framing the Orrin G. Hatch–Bob Goodlatte Music Modernization Act of 2018, landmark legislation to update the U.S. music licensing system. In 2020, Congress enacted the Copyright Alternative in Small-Claims Enforcement (CASE) Act based on the model statute included in the 2013 Copyright Office report. Now helming a firm of her own in Los Angeles, Charlesworth handles music and copyright-related litigation, transactional and policy matters.

As many of you know, I'm a music lawyer, and it was music that first brought me and Marybeth and me together.¹⁵³ I don't mean singing or playing. I mean the really fun stuff: music licensing. As you likely know, Marybeth had been a music examiner and was very talented with music, not just the law around it. In my early years of practice, I was often dispatched to the Copyright Office to represent the interests of music publishers, an intimidating experience for me as a young lawyer.

I remember a particular meeting I had scheduled with the Office to discuss the intricacies of certain Section 115 regulations,¹⁵⁴ at which meeting I was surprised and slightly alarmed to find myself addressing the Register of Copyrights herself, in addition to her staff attorneys. Marybeth was not only fully engaged in the arcane topic of discussion, but somehow led me to believe that I knew what I was talking about.

At the end of the meeting, Marybeth asked me if I'd like a copy of Circular 92.¹⁵⁵ Well, of course, I said yes, although I'm pretty sure I had absolutely no idea what she was talking about. Circular 92 was, and still is, the way people of the Copyright Office refer to the book form of the Copyright Act. Anyway, she handed me this book. And her gift to me that day instilled confidence in me that, in some small way, I had arrived as a copyright lawyer.

Fast-forward to quite a few years later, shortly after Marybeth had retired from the Office, I was working at a New York firm and looking for a side gig doing pro bono work on behalf of creators. I had scheduled a meeting in Washington with a nonprofit organization and, at the suggestion of Professor Jane Ginsburg, had also made arrangements to see Marybeth in Virginia the following day to discuss the possibility of launching a law school clinic.

Well, the first meeting could not have gone worse, as it was made very clear to me by the organization that they had no particular desire or need for my free services. I was incredibly discouraged, indeed so discouraged that I came very close to dropping the whole *pro bono* idea and just returning to New York. Fortunately, though, someone talked me out of that, urging me to stay in DC and meet with Marybeth. And so I pulled myself together and went out to Alexandria the next morning to see her. This was after she had retired.

Marybeth was enthusiastic about the clinic idea and promised to follow up with some contacts of hers in academia, which she, in fact, did, but she also took the time to ask me what I really wanted to be doing with my career. And I confessed an interest in copyright policy. She then suggested that I consider

¹⁵³ Charlesworth actually started her own entertainment law firm at the age of 60. *Id.*

¹⁵⁴ 17 U.S.C. § 115(a)(1)(1776). Section 115 provides for a compulsory license for the reproduction and distribution of musical works.

¹⁵⁵ Circulars are published authorities providing information to a general audience ranging from fundamental concepts of copyright law to policies of the Copyright Office. *See* CIRCULARS, U.S. COPYRIGHT OFFICE, <https://www.copyright.gov/circls/> (last visited June 25, 2024).

working at the Copyright Office and offered to put in a good word for me with her successor, Maria Pallante. They were going to be traveling together on a plane to Los Angeles the next day to. And she did that as well.

So several months later, there I was in the Copyright Office. We've heard a lot about how Marybeth – I think someone used the phrase “altered life trajectories.” She certainly altered mine. Like the very best of leaders, she didn't keep people down but lifted them up. Her influence on the communitythe copyright community that we all love so much, will live on in those she supported and inspired. I know it does in me.

And with that, I'm going to turn it over to Nancy Wolff.

Nancy Wolff:¹⁵⁶ Thank you, Jackie. Like all of you, it's just amazing to be here and to pay tribute to Marybeth. The only thing I regret now is that I never worked with her. But like many of you, I did get to know her and meet her through the Copyright Society annual meetings. I looked forward to that annual update from the Copyright Office each year. She would also host the Copyright Office day with the ABA IP Copyright Division.¹⁵⁷ And she was always, as everyone's mentioned, in great spirits and had a talent for speaking that not only made everything clear but always, even in the darkest times, was uplifting.

I still have a memory of her during the anthrax scare days in Congress when all the registrations were, I guess, literally... Was it irradiated or whatever the word is?¹⁵⁸ But she held up this charred, blackened registration paper application, which it was at the time, and some melted-down CD and just laughed. So, she could even deliver bad news with a smile.

But where I really got to know her professionally and could see her deep love for trying to solve problems and to help creators was as counsel to a trade association to the Image licensing industry. It's had different names over the

¹⁵⁶ Nancy Wolff is a partner at Cowan, DeBaets, Abrahams & Sheppard LLP where she primarily focuses on digital media, art law, licensing, and publishing. She serves as Counsel to the Digital Media Licensing Association, co-chair of the firm's Litigation Department, and co-chair of the firm's Art Law Group. She previously served as the President of the Copyright Society and is a member of the ABA IP Task Force on Copyright Reform. Nancy E. Wolff, CDAS, https://cdas.com/people/nancy_wolff/ (last visited June 19, 2024).

¹⁵⁷ The ABA IP Copyright Division is composed of various subcommittees, such as Copyright and Emerging Tech. or Visual Arts and Dramatic Works, focusing on copyright law and practices. See Copyrights and Related Division, AMERICAN BAR ASSOCIATION, https://www.americanbar.org/groups/intellectual_property_law/committees/copyrights-division/. (last visited June 19, 2024).

¹⁵⁸ See *Amerithrax or Anthrax Investigations*, FAMOUS CASES AND CRIMINALS, FBI, <https://www.fbi.gov/history/famous-cases/amerithrax-or-anthrax-investigation> (last visited June 25, 2024). (“Soon after the terrorist attacks of 9/11, letters laced with anthrax began appearing in the U.S. mail. Five Americans were killed and 17 were sickened in what became the worst biological attacks in U.S. history.”).

years: PACA and DMLA (Digital Media Licensing Association).¹⁵⁹ But this was pre-Internet, and photographs were literally mailed to customers. And these big glossy catalog books were published so that publishers and advertisers would know the sample of the type of works that photo libraries held at that time literally in file cabinets.

And these big glossy books had high-quality images in them, and surprisingly, some people wanted to use them without paying. So, we were trying to figure out how to register these photographs, which was very difficult because the individual images were all owned by hundreds to thousands maybe of contributors, but there was just one company publishing them in a catalog. And so, as an association, we would have meetings at the Copyright Office with the heads of all the departments to discuss solutions.

And everyone, including Marybeth, worked creatively to try to solve this problem and came up with language in contributor agreements that you could transfer copyright to the publisher of the catalog.¹⁶⁰ So that way, there'd be one copyright owner to the catalog and that registration would also protect the image because there was no purpose in protecting any selection and arrangement.

And then, when catalogs became Internet websites, we worked with the association to figure out ways to have databases that could protect images.¹⁶¹ And she was always there listening and trying to, as everyone said, solve problems. And I loved seeing the video of her talking about: why do we have copyright? Because we do want to encourage creators, and there does need to be economic incentives.

So, she always understood that copyright protection had to work for individual authors as well as corporations, publishers, film studios, record labels, and always looked at ways to help those who really needed the system to work for them, came up with – I don't remember. She came up with group registration

¹⁵⁹ The Digital Media Association works to “ensure the future” of the media production, distribution and licensing industry. See Working to Ensure the Future of Our Industry, DIGITAL MEDIA LICENSING ASSOCIATION, <https://www.digitalmedialicensing.org/whatwedo> (last visited June 19, 2024). Focusing on protecting the rights of the creators in this digital metasphere, this Association has spearheaded the charge to protect copyright and strengthen its subsequent laws. *Id.*

¹⁶⁰ What Peters deemed a “pervasive” problem, the issue of orphan works – works whose copyright owners cannot be located easily or reasonably – came to a head as libraries and archival systems started to digitize their collections. See David R. Hansen et. al., *Solving the Orphan Works Problem for the United States*, 37 Colum. J.L. & Arts 1, 3 (2013). Since copyright law has a relatively hefty injunctive relief and damages ceiling, it would cause the potential liability to outweigh making these collections available at all. *Id.*

¹⁶¹ Noting specific limitations for digital information resources, an Office report described situations where there was inaccurate or conflicting information regarding the materials. See REPORT ON ORPHAN WORKS, U.S. COPYRIGHT OFFICE 1, 31 (2006). This highlights a conflict between rendering records more accessible for the general public and protecting the original source, and its subsequent copyright. *Id.* The Office has attempted to remedy this problem with recommendations and proposed solutions. *Id.*, at 5-7.

of photographs to help photographers register their works. She was always there working with the creative community to try to make a system work for everybody.

And I know I'm at the end of the batting lineup. So, I don't wanna take too much time. But like everyone else, I remember Marybeth with her warm, personable approach, her infectious smile, the crazy laugh, and someone who cared deeply about creators and their rights and a workable and very fair copyright system. She is the reason I love practicing copyright law [and] one reason I love this copyright community.

And I hope we can all carry on what she started and be the type of mentor and caring person for the upcoming generations of copyright lawyers. And with that, I will pass it on to another, I think, another fellow Rhode Islander, Fritz Attaway.

Fritz Attaway:¹⁶² Thank you. I'd like to add my thanks to Maria and Regan for putting this one. It truly has been a wonderful experience. I knew Marybeth for more than 40 years, starting in 1976, when I knew absolutely nothing about copyright and had the good fortune to learn from the likes of Marybeth and Barbara Ringer¹⁶³ and Jon Baumgarten.¹⁶⁴ I still will never reach their level of knowledge, but I certainly appreciated the opportunity to learn from them.

I think this has been a fitting tribute to the life of Marybeth, whose legacy is not just about copyright. It's about being a really good decent human being who touched the lives of so many and contributed to the lives of so many, certainly myself and all of the speakers who you've been listening to today. And I know we've exceeded our time limit. And in the interest of those of you who may still have to work for a living, unlike myself, I'll turn it over back to Regan to give her closing remarks. Thank you.

Regan Smith:¹⁶⁵ Thank you. Thank you, everyone. If people could stay on for just a couple more minutes, I think we are nearing the end of the program, but I want to note it's been about two hours, over a half hour over, and we've still got almost 100 people on. I think in this age of virtual fatigue it is really just a testament to Marybeth herself as well as what is really powerful about the copyright community. We have one more video from someone who was not able to show up today, David Israelite.¹⁶⁶

¹⁶² Fritz Attaway is the former Executive Vice President and MPAA Special Advisor of Motion Picture Association of America. See *Fritz Attaway*, LINKEDIN, <https://www.linkedin.com/in/fritz-attaway-b788889/> (last visited June 17, 2024); *Our People*, MPA, <https://www.motionpictures.org/who-we-are/#our-people> (last visited June 17, 2024).

¹⁶³ See Barbara Ringer, *supra* note 148.

¹⁶⁴ See Jon A. Baumgarten, *supra* note 51.

¹⁶⁵ See Regan Smith, *supra* note 4.

¹⁶⁶ David Israelite is President and CEO of the National Music Publishers Association. Israelite has previously served as Deputy Chief of Staff and Counselor to the Attorney General of the United States, and Chairman of the Department's Task Force on Intellectual Property. Additionally, Israelite was a part of the Commercial Litigation Department at

And then I would urge you to stay on because we have a video montage that we played at the beginning. If you didn't get a chance to see it, it is really quite powerful to watch the photo montage. And these remarks again, thank you, everyone, for the thoughtful remarks you prepared today. And we will be working to publish it in the Journal of the Copyright Society. So, video.

David Israelite (on video): I'm so honored to be given the opportunity to speak about my friend and a true champion for songwriters, Marybeth Peters. When I was hired at [inaudible] [02:02:07], one of my first orders of business was to try to create an annual meeting that would become a celebration of the songwriting and music publishing industry. And for the very first one, I invited Marybeth to be our keynote speaker, and everyone in that room learned why we were such a fan of hers.

Marybeth will be remembered not just as a great Register but really as a champion for songwriters. She was an advocate for songwriters. So much of what songwriters and music publishers enjoy today is built on the foundation that Marybeth Peters helped to build throughout her many years of helping to create a healthy, vibrant copyright community. She'll be missed tremendously.

And I think one thing that we'll never forget is that she was someone that always made you feel at ease, had a smile, and really related to what you were dealing with in the songwriting community. And that's why so many songwriters so much enjoyed working with her. She'll be tremendously missed, but she'll never be forgotten. Thank you so much, Marybeth, for everything that you did.