

Ex-copyright chief favors 'opt-in' system

Marybeth Peters said that if a party wants to digitize books, it must follow copyright laws. | AP
By [JENNIFER MARTINEZ](#) | 5/9/11 1:25 PM EDT

Before she retired as the head of the U.S. Copyright Office at the end of last year, Marybeth Peters was a notable opponent of Google's settlement with publishers to create a universal digital library. That hasn't changed.

Speaking at a Copyright Clearance Center event on Monday, Peters cheered federal District Court Judge Denny Chin's ruling to reject the \$125 million proposed settlement because it "flips" how the copyrights system in the U.S. functions.

"He basically said, 'You went too far. You didn't just solve the problems that were at issue in the case — which is scanning, reproducing the works and showing snippets. You created new business models for the future. That is too far,'" Peters said. "That is the part that I applaud in Judge Chin's decision."

Peters acknowledged "many, many good things were in that settlement." However, she didn't elaborate.

Peters also shed some light into how the Copyright Office dealt with Google's proposal to digitize books. She recalled remarking "we have a little bit of a problem here" because the search engine giant was primarily relying on fair use laws to move ahead with its plan to create a universal library online.

Instead, Peters said the Copyright Office recommended that only public-domain works should be part of the digitalization endeavor between the Library of Congress and Google.

"Google decided that that wasn't good enough and it walked away," Peters said. "But at that time I heard from a Chief Executive Officer, named [Eric] Schmidt, who basically said ... copyright should be an opt-out system."

However, Peters still strongly objects to such an opt-out system, which would allow a party to use copyrighted material unless the owner of that copyright objects to it. Alternatively, she advocates for Google to rely on an opt-in system, which would require publishers to give Google permission to use its copyrighted works.

However, Google wasn't receptive to that proposal when the settlement was being discussed with the Copyright Office.

"From the very beginning, I said it, as did others, that opt-in was a solution. Google representatives repeatedly said, 'That does not give us enough works to be in the base for it to be useful,'" Peters said.

Peters is not against digitizing books, she said. But if a party wants to do so, it must follow copyright laws, she added.

Prior to her retirement at the end of last year, Peters served as the Register of Copyrights for over a decade and worked in the Copyright Office for around 45 years. She is currently on the board of the Copyright Clearance Center, a global rights broker for sought-after print and online content, and does some teaching in the D.C. area.

When asked if the U.S. government is doing enough to protect copyrights, Peters said Congress could do a better job but noted that there is a wider range of stakeholders that lawmakers have to listen to when weighing the issue in the present day. This makes it a more time-intensive process for lawmakers.

“I don’t know today with all the issues before them that they have the time that they used to have to consider things more leisurely,” Peters said. “But I really do believe that we have to have laws that recognize the issues of today.”