

**Statement of
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**Oversight Hearing of the U.S. Copyright Office
Before the
Subcommittee on Courts, Intellectual Property, and the Internet
Committee on the Judiciary
U.S. House of Representatives**

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Chairman Issa, Ranking Member Johnson, and Members of the Subcommittee:

Thank you for the opportunity to appear before you today to report on the many accomplishments and current projects of the Copyright Office.

To summarize the highlights, we have substantially improved processing times for both registration and recordation services while making significant progress on our new Enterprise Copyright System. We've launched an initiative on artificial intelligence, celebrated the first full year of operations of our new small claims tribunal, produced a number of studies responding to Congressional requests, and engaged in regulatory work, including commencing the ninth section 1201 triennial rulemaking. And we have seen public engagement with the Office break records through stakeholder events and targeted outreach around the country.

The Copyright Office is tasked with overseeing the national copyright registration and recordation systems, advising Congress on copyright policy and legislation, working with the Department of Justice and other federal agencies on copyright litigation and international copyright matters, conducting administrative and regulatory activity including with respect to statutory licenses, and educating the public about copyright. As of August 31, 2023, the Office has 444 full-time employees, with minority representation of 51.4%, and women comprising nearly 60%.

Administering the Copyright Act

Registration: The Office continues to efficiently examine registration claims while moving forward with IT modernization. In fiscal 2022, we registered over 484,000 copyright claims involving millions of works. We were able to eliminate the backlog of electronic filings over three years ago, and the backup of physical deposits over a year ago. We have also brought registration processing times to historic lows: the average time for examining all copyright claims stands at 2.1 months for the first half of fiscal 2023. For fully electronic claims

that do not require correspondence, the average processing time is down to just over one month (1.2 months).¹ While the pandemic temporarily impacted processing times for electronic applications with physical deposits as well as paper applications, we have reduced these timeframes sharply (to an average of 2.7 months and 4.3 months, respectively).

Recordation: We have made great strides in modernizing recordation, which involves filing and indexing documents relating to copyright into our public records.² In April 2020, we launched a pilot of a new online recordation system for basic (section 205) recordation documents; this represented a major improvement to our historic paper-based process. On August 1, 2022, we opened the pilot to all members of the public,³ and we have received very positive feedback. The average time from electronic submission of basic recordation documents to generation of the public record is now measured in weeks rather than months.⁴ In our first year of online recordation operation, 75 percent of all recorded documents were submitted through the online system, constituting over 8,000 documents containing over 350,000 works. We are currently building functionality to process notices of termination online as well.

Licensing: The Office maintained our effective stewardship of over \$1.2 billion in statutory licensing funds as of the end of fiscal 2022.⁵ For the fifth consecutive year, we received an unmodified or “clean” audit opinion of the statutory licensing fiduciary asset financial statements.⁶ In addition, on July 1, 2022, the Licensing Section moved to a single Electronic Funds Transfer (EFT) method for payment of current, past, and future royalty and filing fees.

¹ Registration processing times are posted on our website at <https://copyright.gov/registration/docs/processing-times-faqs.pdf>. For the October 1, 2022, to March 30, 2023, timeframe, 82% of all registration claims were eService claims (online claims with electronic deposits); about 15% were deposit ticket claims (online claims with separately mailed physical deposit materials); and about 2% were mail claims (paper claim forms with physical deposits).

² There are three types of documents that may be submitted for recordation: transfers of copyright ownership, other documents pertaining to a copyright, and notices of termination. The pilot and newly released system currently cover only the first category (section 205 documents).

³ See U.S. Copyright Office, NewsNet 955, Copyright Office Expands Recordation System Access to the Public (Aug. 1, 2022), <https://www.copyright.gov/newsnet/2022/975.html>; U.S. Copyright Office, NewsNet 1015, Copyright Online Recordation System Marks One-Year Anniversary (Aug. 1, 2023), <https://copyright.gov/newsnet/2023/1015.html>.

⁴ Recordation processing times are posted on our website at <https://copyright.gov/recordation/>. The Office of Copyright Records is currently processing papers submissions of basic (section 205) recordation filings from September 2021 through April 2023 for notices of termination. Regardless of the processing time, the effective date of recordation is the date the Copyright Office receives the complete submission in acceptable form.

⁵ The Licensing Section is responsible for helping to administer various statutory licenses and similar provisions, including: secondary transmissions of radio and television programs by cable and satellite systems; making and distributing phonorecords of nondramatic musical works; and importing, manufacturing, and distributing digital audio recording devices or media.

⁶ U.S. Copyright Office, NewsNet 972, Library of Congress Publishes Results of an Independent Audit of the Fiscal Year 2021 Fiduciary Financial Statements (Jul. 5, 2022), <https://copyright.gov/newsnet/2022/972.html>.

The Copyright Claims Board: The groundbreaking small claims tribunal, the Copyright Claims Board (CCB), opened its doors to the public on June 16, 2022.⁷ Within the tight time frame established by the Copyright Alternative in Small-Claims Enforcement Act of 2020 (CASE Act), we published fifteen Federal Register notices; hired the CCB Officers and full staff; and collaborated with other Library service units to prepare an electronic filing and case management system (eCCB), virtual hearing facilities, and office space. We launched a new dedicated website, ccb.gov, which links to eCCB, a service agent directory, and pro bono resources, along with other helpful information for both claimants and respondents.

At its first anniversary, the CCB had received 485 claims from forty-three states and twenty-four countries,⁸ and forty-six of those claims were in active proceedings. Those numbers continue to grow; we have now received over 575 claims. This past year the Office completed several rulemakings to improve processes and operations for claimants. Finally, we continue active efforts to inform and educate the public. The CCB and other Office staff have participated in scores of public events to discuss and promote the use of the CCB, and have reached audiences in-person and virtually from every geographic area of the United States and a dozen countries.

Information Technology Modernization and Continuous Development

Our ongoing modernization initiative continues to be a top priority as well as a strategic goal. The Office has completed the fourth year of Congress' appropriated five-year funding (fiscal 2019–2023) for modernization of our existing IT systems. We are committed to ongoing updates and improvements so as to avoid repeating the experience of having to overhaul severely outdated legacy systems. The Office's fiscal 2024 funding request (discussed below) seeks the resources necessary to implement our strategic goals, including providing continuous development as well as enhancing the use of data in our ongoing work.

In the past two years, the Office has seen the benefits of continuous development to meet the evolving changes in technology, provide secure and interconnected systems, and manage contract cost increases. Under the Library of Congress's centralized IT structure, the Office works closely with the Office of the Chief Information Officer (OCIO) to provide the business information needed for IT development. OCIO and the Office have transitioned to an agile development model, with an emphasis on rapid design and delivery of new functions and features that optimize stakeholders' experience. The planned Enterprise Copyright System (ECS) includes workstreams on recordation, public records, registration, and licensing.

⁷ U.S. Copyright Office, NewsNet 969, Copyright Office Announces Claims Board Is Open for Filing (Jun. 15, 2022), <https://www.copyright.gov/newsnet/2022/969.html>.

⁸ U.S. Copyright Office, NewsNet 1009, U.S. Copyright Office Celebrates First Year of the Copyright Claims Board (Jun. 26, 2023), <https://www.copyright.gov/newsnet/2023/1009.html>.

Recordation: Our new online recordation system was the first ECS component to be released to the public, enabling recordation of documents under section 205 of title 17. As noted above, in August 2022, full online access was provided to all members of the public. We are now incorporating user feedback to make iterative improvements as well as to build new functionality to process notices of termination. We anticipate the recordation component will move into continuous development in fiscal 2024.

Public Records: Our second ECS application to be publicly released was a pilot for the new Copyright Public Records System (CPRS). This system provides an improved interface for our public records (which includes post-1978 registration and recordation records), along with advanced search functionality. It will eventually replace the existing Copyright Office Online Public Catalog. We anticipate that this component also will move into continuous development in fiscal 2024.

Registration: Registration is the most complex of the Office's services and the focus of the greatest public attention. During the initial ECS development work, we have made considerable progress on both the external (public) and internal (staff) components of the new registration application. We have also established an eDeposit development team to develop enhanced upload and rendering capabilities, including for large numbers of files and very large files well above the current 500 MB limit. With continued support, we plan to conduct stakeholder and staff testing of these capabilities by the end of calendar 2024. Assuming success with the initial phases of user testing for eDeposits, we plan to begin developing group registration workflows and ultimately retire the legacy eCO Registration system by the end of calendar 2026.

Licensing: Over the past two years, the Office has been developing user experience design and initial automated workflows to replace outdated licensing processes. Development is focusing on migrating the statement of account examination processes to ECS and migrating all royalty accounting processes onto the Legislative Branch Financial Management System to streamline them and eliminate duplication. The new licensing processes will move into continuous development in spring 2024.

Historical Public Records: As part of the Office's commitment to the preservation of and access to our historical records, we are digitizing print and microfilm records and making them available online. This includes the card catalog,⁹ the Catalog of Copyright Entries (CCEs), and the record books. Digitization is the first step, to be followed by metadata capture to enhance searchability, with all records eventually available through the new CPRS. Great

⁹ The Office already digitized and made available online our physical card catalog, which is available in the Virtual Card Catalog (VCC), as well as the CCEs. See <https://copyright.gov/vcc/>. The VCC Proof of Concept represents card records from 1870 to 1977, displayed in JPEG images, from the U.S. Copyright Card Catalog collection. The images are presented in a similar filing order as found in the physical card catalog. Initial work is underway to capture metadata on these cards.

progress has been made this year to digitize and make publicly available the Office's 26,000 record books, which contain well over 26 million pages of records between 1870 and 1977. The first 500 books were published on the Library's website in February 2022,¹⁰ and now over 9,000 books are available online. Work is being done in reverse chronological order from 1977, with the scanned books being posted in batches.

Copyright Public Modernization Committee: In January 2021, the Librarian of Congress appointed a Copyright Public Modernization Committee (CPMC) to enhance communication with external stakeholders about the technology-related aspects of the Office's modernization initiative.¹¹ The CPMC is made up of thirteen members from the publishing, music, and photography sectors, libraries and archives, and other fields.¹² To date, five public meetings have taken place (most recently in August 2023); there also have been several informal briefings for CPMC members.

Warehouse Consolidation: The Office has finished consolidating copyright deposit materials and other stored records from several geographically dispersed storage facilities into a single, modern facility. The collaborative warehouse construction project between the Library, the Copyright Office, and the Architect of the Capitol was completed ahead of schedule. We moved into our new facility in Landover, Maryland, in November 2020, and vacated the last of our three external storage facilities this summer. This consolidation of copyright materials into one facility will allow the Office to provide faster location services, better tracking, and improved security for copyright deposits.

Contact Center: The Office's work to modernize call routing and reporting is moving forward. Working with the GSA Centers of Excellence program, we obtained a roadmap to plan for a new high-performing, multi-channel contact center to enhance our communications with the public. We successfully implemented the first phase in spring 2023, and teams across the Office are now using a best-in-class software system to receive, track, and route calls and emails.

Law and Policy

The Office continued its longstanding roles of providing advice to Congress and the courts, and information to the public.

¹⁰ See U.S. Copyright, NewsNet 947, Copyright Office Launches Digitized Copyright Historical Record Books Collection (Feb. 7, 2022), <https://www.copyright.gov/newsnet/2022/947.html>. The scans are posted at <https://www.loc.gov/collections/copyright-historical-record-books-1870-to-1977/about-this-collection/>.

¹¹ Library of Congress, Announcement of Copyright Public Modernization Committee, 86 Fed. Reg. 8044 (Feb. 3, 2021), <https://www.govinfo.gov/content/pkg/FR-2021-02-03/pdf/2021-02194.pdf>.

¹² U.S. Copyright Office, NewsNet, Library of Congress Announces Copyright Public Modernization Committee (Jun. 22, 2021), <https://www.copyright.gov/newsnet/2021/898.html>.

Artificial Intelligence: The Copyright Office has moved quickly in addressing the copyright implications of artificial intelligence (AI). Earlier this year, we launched a broad AI Initiative. In March 2023, we published a dedicated webpage, www.copyright.gov/ai, providing information to the public on developments in this area, and issued guidance on how to apply to register works that incorporate AI-generated content.¹³ Over the past six months, we have held dozens of meetings with stakeholders, academics, and technology companies, as well as four public listening sessions and two webinars (one on our registration guidance and the second on international issues).¹⁴ At the end of August, we published a notice of inquiry seeking public comment on a wide range of issues focusing on: (1) the use of copyrighted works to train AI models; (2) the copyrightability of material generated using AI systems; (3) potential liability for infringing works generated using AI systems; and (4) the treatment of generative AI outputs that imitate the identity or style of performing artists.¹⁵

The Office also continues to evaluate registration claims that involve AI-generated material. Recently a federal district court upheld our refusal to register a work that the applicant claimed was made “without any creative input or intervention from a human author.” The court agreed that “statutory text, judicial precedent, and longstanding Copyright Office practice” all require human authorship as a condition of copyrightability.¹⁶

Music and the MMA: The Office is engaged in a number of complex music-related legal matters, including the ongoing implementation of the Music Modernization Act (MMA). As anticipated by the statute, the Office exercises oversight responsibility over the Mechanical Licensing Collective (MLC), to ensure that it continues to make progress and fulfills its duties under the statute. To our knowledge, the MLC is administering the statutory blanket license as required and is performing its duties in line with the statute and our regulations. We hold periodic meetings separately with the MLC, with the Digital Licensee Coordinator, and with songwriter groups to ensure that we hear feedback on the MLC’s operations and how the MMA is working.

As part of our work, the Office promulgates rules related to the MMA. This year we issued an interpretative rule on fees for late royalty payments¹⁷ and have an open rulemaking related to the effect of copyright termination on the blanket license. As required by the MMA, we plan to initiate the periodic review of the MLC’s designation in January 2024. Finally, the

¹³ U.S. Copyright Office, Copyright Registration Guidance: Works Containing Materials Generated by Artificial Intelligence, 88 Fed. Reg. 16190 (Mar. 16, 2023).

¹⁴ U.S. Copyright Office, “Our Summer of Artificial Intelligence: Copyright Offices Hosts Two Webinars on Copyright and AI,” (Aug. 23, 2023), <https://blogs.loc.gov/copyright/2023/08/our-summer-of-artificial-intelligence-copyright-office-hosts-two-webinars-on-copyright-and-ai/>. These webinars broke Office outreach attendance records, reaching thousands.

¹⁵ U.S. Copyright Office, Artificial Intelligence and Copyright, 88 Fed. Reg. 59942 (Aug. 30, 2023).

¹⁶ Mem. Op., *Thaler v. Perlmutter*, No. 22-cv-1564, ECF No. 24 (D.D.C. Aug. 18, 2023).

¹⁷ U.S. Copyright Office, Fees for Late Royalty Payments under the Music Modernization Act, 88 Fed. Reg. 60587 (Sep. 5, 2023), <https://www.govinfo.gov/content/pkg/FR-2023-09-05/pdf/2023-18609.pdf>.

Office continues to actively engage in education and outreach efforts to help ensure that publishers and songwriters, especially independent songwriters, understand they can register their works and claim royalties with the MLC. This includes appearing at SXSW and other music industry festivals and events, and producing popular educational materials that are tailored to this audience and available for free.

We also have specific, but limited, responsibilities related to the Library's Copyright Royalty Board (CRB). In November 2022, the Office responded to a congressional inquiry about increasing opportunities for participation in proceedings before the Copyright Royalty Judges (CRJ).¹⁸ The Office concluded that the CRJs possess authority under current law to provide a greater opportunity for public involvement in rate-setting proceedings, but legislation may be necessary for more sweeping change.

Section 1201 Triennial Rulemaking: In June, the Office launched its ninth triennial section 1201 rulemaking.¹⁹ The goal of this proceeding is to determine whether there are particular classes of works as to which users are, or are likely to be in the next three years, adversely affected in their ability to make noninfringing uses due to the law's prohibition on circumventing access controls. When such classes are identified, the Register provides recommendations for the Librarian to consider when she promulgates regulations exempting the relevant uses from the prohibition for the succeeding three-year period. For this proceeding, the Office is again using a streamlined procedure for the renewal of exemptions that were granted during the previous eighth triennial rulemaking. We expect to issue a notice of proposed rulemaking in October 2023.

Additional Studies and Congressional Engagement: The Office has delivered a number of reports and letters to Congress over the past year, including a study on electronic deposits and the best edition requirement;²⁰ a report on stakeholder consultations on the voluntary use of technical measures to identify or protect copyrighted works;²¹ and a study on standard technical measures as defined in the Digital Millennium Copyright Act (DMCA).²² Currently, we are in the process of completing a study on non-fungible tokens and intellectual property jointly with the U.S. Patent and Trademark Office (USPTO), having gathered public

¹⁸ Although the CRB is an independent body within the Library of Congress, and not part of the Copyright Office, the Office advises and assists Congress with questions on title 17, including those portions of the statute governing the CRJs. 17 U.S.C. § 701(b)(1).

¹⁹ U.S. Copyright Office, NewsNet 1008, U.S. Copyright Office Announced Start of Ninth Triennial Rulemaking Proceedings Under Section 1201 (Jun. 8, 2023), <https://www.copyright.gov/newsnet/2023/1008.html>. See more on this proceeding at <https://www.copyright.gov/1201/2024/>.

²⁰ U.S. Copyright Office, Electronic Deposits and Best Edition, <https://www.copyright.gov/policy/best-edition/>.

²¹ U.S. Copyright Office, Technical Measures Consultations, <https://www.copyright.gov/policy/technical-measures/>.

²² U.S. Copyright Office, Standard Technical Measures and Section 512, <https://www.copyright.gov/policy/stm/>.

comments and held public roundtables earlier this year.²³ We also advise individual Members' offices on questions about pending or proposed legislation.

Work with Other Agencies on Litigation and IP/Trade: The Office also provided legal advice and assistance across the government regarding copyright law and policy, including in Supreme Court and appellate litigation and interagency collaboration on international matters and trade. In the last few years, three copyright cases have reached the Supreme Court, and the Office worked with the Department of Justice and the Solicitor General in preparing the U.S. government views presented to the Court.²⁴ We also continue interagency collaboration on international matters and trade with agencies such as the Office of the U.S. Trade Representative and the U.S. Patent and Trademark Office. This includes working with other countries on copyright law reform; public educational events; and participation in regional intellectual property activities as well as at the World Intellectual Property Organization (WIPO) and the World Trade Organization (WTO). In late September 2022, we joined with WIPO to successfully produce our long-standing biennial, week-long International Copyright Institute training event for copyright officials from other countries.²⁵

Expanded Outreach and Economic Analysis

The Office engages in extensive outreach activities to provide clear and accurate information on copyright law. We regularly produce and contribute to events to educate the public and stakeholders about copyright, including to reach music and songwriter communities with information about the MMA, and all copyright creators and users with information about the CCB. In fiscal 2022, we hosted 47 public events and spoke at over 100 more, roughly doubling our level of activity from the prior year. We have likewise been very active in fiscal 2023, fulfilling requests for information, and hosting and speaking at public educational programs around the country and online. For example, two webinars about the CCB reached a total of over 500 people in 49 states – and recordings have been viewed a combined 2,000 times, while our CCB handbook has been downloaded over 9,000 times.

We have expanded our promotional efforts to reach out to new audiences and to create a variety of easily accessible educational resources. These materials provide plain language explanations of copyright law and specific information relating to Office initiatives, including many now available in Spanish. The Office also continues to maintain our Fair Use Index, which contains summaries of more than 200 selected cases involving fair use.²⁶ In addition,

²³ U.S. Copyright Office, Non-Fungible Tokens Study, <https://www.copyright.gov/policy/nft-study/>.

²⁴ Briefs of the U.S. government in copyright cases before the Supreme Court and other federal courts are posted at U.S. Copyright Office, Amicus Brief Archive, at <https://copyright.gov/rulings-filings/briefs/>.

²⁵ U.S. Copyright Office, International Copyright Institute (2022), <https://www.copyright.gov/international-issues/ici-2022.html>.

²⁶ U.S. Copyright Office, Fair Use Index, <https://www.copyright.gov/fair-use/>.

decisions of the Copyright Office Review Board, which hears final administrative appeals of refusals of copyright registration, are available online dating back to April 2016.²⁷

The Office has also established new capabilities in economic analysis. We hired our first Chief Economist in April 2022, and soon thereafter released a report examining women authors' participation in the U.S. copyright system based on forty-two years of registration data.²⁸ Thanks to congressional budgetary support, we have recently completed the hiring of two additional economic experts to support building both external and internal economic research agendas. In addition, we have commenced internal work to prepare for our next fee study. As in the past, we anticipate that the fee study will involve policy issues that will benefit from public input, which we plan to request in 2024.

Budgetary Support

The Copyright Office performs all of this work on a relatively modest budget and appreciates the support we have received from Congress in recent fiscal years. For fiscal 2024, the Office has requested an overall budget of \$103.1 million in funding and 481 FTEs, of which \$45.6 million would be funded through offsetting fees collected in fiscal 2022 and prior years.

The Copyright Office's overall budget is composed of three separate budgets or program areas:

- **Basic Budget:** The basic budget proposal is \$93.0 million and 448 FTEs, comprising \$38 million in offsetting fee collections (41%) and \$55 million (59%) in appropriated dollars. This budget funds most of the Office's operations and initiatives, including the majority of payroll-related expenses. Historically, it has been composed of a combination of appropriated dollars and authority to spend fee revenue, with fees constituting close to one half of the total. Our request includes mandatory pay-related and price level increases of \$4.347 million, plus one shared program increase of \$7.220 million for Copyright Office Information Technology Continuous Development.²⁹ As discussed above, this program increase is a mission-critical need that will provide essential investment and ongoing funding needed to develop, test, and integrate multiple ECS applications with related systems and ensure they are kept up-to-date. Notably, this request is supported through sustained funding and is a minor increase in offsetting collections and prior year authority. It will not require an increase in appropriated funds.

²⁷ U.S. Copyright Office, Review Board Opinions, <https://www.copyright.gov/rulings-filings/review-board/>.

²⁸ U.S. Copyright Office, Women in the Copyright System, <https://www.copyright.gov/policy/women-in-copyright-system/>.

²⁹ This shared program increase of \$7.220 million includes \$4.323 million and 3 FTEs for the Copyright Office and \$2.897 million and 13 FTEs for OCIO.

- **Licensing Section Budget:** This proposal is \$6.9 million and 26 FTEs, all of which are to be funded from collections of licensing royalties payable to copyright owners and filing fees paid by cable and satellite licensees pursuant to statutory licenses administered by the Office. The requested increase is to cover mandatory pay-related and price level increases of \$0.327 million.
- **Copyright Royalty Judges Budget:** This proposal is \$3.2 million and 7 FTEs, with \$0.2 million to support mandatory pay-related and price level increases. Although the CRJ program is not part of the Copyright Office, we provide it with budget formulation and execution support on behalf of the Library of Congress. Appropriated funding supports payroll and partially funds non-pay expenses that are not supported by fees and royalty payments. Of this total, royalties and participation fees offset \$0.603 million (for non-personnel-related expenses). The remainder, \$2.590 million in appropriated dollars, is to cover the personnel and other related expenses of the three judges and their staff.

In recent years, we have been able to use targeted programmatic requests to implement statutory requirements as well as to support Office services. For example, the Office requested and obtained \$3.2 million in additional fiscal 2022 funding to implement the CASE Act,³⁰ subsequent to our unfunded fiscal 2021 work, including hiring the CCB staff. For fiscal 2023, the Office obtained a single program increase of \$1.7 million to provide for new positions involving cost analysis, economic analysis, and statistic capabilities as well as software to support valuable new skillsets.³¹ And as discussed above, our single request for fiscal 2024 aims at supporting continuous IT development.

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We appreciate the Subcommittee’s continued support of our work to promote and improve the copyright system.

³⁰ The fiscal 2022 budget for CASE Act implementation included \$1.0 million in one-time costs for office construction and furniture, audiovisual system acquisition, and development of an online case management system; and \$2.2 million in recurring costs (\$1.7 million for salary, benefits, and related costs for the 8 FTEs and \$500,000 for systems operation and maintenance, printing, and other services).

³¹ That fiscal 2023 request was fully supported through an increase in offsetting collections authority and did not require an increase in appropriated dollars.