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United States Senate

COMMITTEE ON THE JUDICIARY
WASHINGTON, DC 20510-6275

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October 22, 2015

The Honorable Maria A. Pallante
Register of Copyrights
U.S. Copyright Office
101 Independence Avenue, S.E.
Washington, D.C. 20540

Dear Ms. Pallante:

Over the past few decades, digital technologies have revolutionized our world. Our intellectual property laws have helped to enable these developments, promoting creativity and innovation, as well as dissemination of, and consumer access to, creative works. One result of recent technological developments is that copyrighted software is ubiquitous in our daily lives. Copyrighted software is now essential to the operation of our refrigerators, our cars, our farm equipment, our wireless phones, and virtually any other device you can think of.

As software plays an ever-increasing role in defining consumer interactions with devices and products, many questions are being asked about how consumers can lawfully use products that rely on software to function. The public is rightly seeking clarity. This is a complex field, and how we interact with software in our products touches on numerous important policy arenas, including intellectual property, privacy, consumer protection, public safety, cybersecurity, competition, and the evolution of the digital marketplace. Our laws should work together to promote the public interest in each of these areas, including the interests of consumers, creators, and technology companies wishing to engage in lawful behavior.

We write to you in an effort to better understand and evaluate how our copyright laws enable creative expression, foster innovative business models, and allow legitimate uses in this software-enabled environment. Some of the issues raised relating to restrictions on use of software-enabled devices may not be driven primarily by copyright issues and, to the extent action is called for we may need to look outside of copyright law. But there is undoubtedly a need to understand how copyright is implicated.

To help us make informed policymaking choices in this area, we request that the Copyright Office undertake a comprehensive review of the role of copyright in the complex set of relationships at the heart of these issues. The Office's longstanding interest and expertise in the intersection of copyright law and technology is essential to understanding how copyright shapes our interactions with software in the things we own. Specifically, we would like you to study and report on the following topics:

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- the provisions of the copyright law that are implicated by the ubiquity of copyrighted software in everyday products;
- whether, and to what extent, the design, distribution, and legitimate uses of products are being enabled and/or frustrated by the application of existing copyright law to software in everyday products;
- whether, and to what extent, innovative services are being enabled and/or frustrated by the application of existing copyright law to software in everyday products;
- whether, and to what extent, legitimate interests or business models for copyright owners and users could be undermined or improved by changes to the copyright law in this area; and
- identify key issues in how the copyright law intersects with other areas of law in establishing how products that rely on software to function can be lawfully used.

This list of topics is not exhaustive. Please examine any other topic that the Office determines is relevant to our inquiry. To the extent that the Office believes legislative, or other, changes are necessary, please make appropriate recommendations.

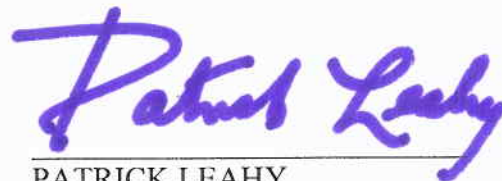
In performing this review, we request that the Office seek public input, including from interested industry stakeholders, consumer advocacy groups, and relevant federal agencies. We also ask that you complete the report no later than December 15, 2016 and that you keep our staff updated on your progress during its completion.

This is a serious matter, deserving of the careful assessment and expert assistance that the Copyright Office can provide. We look forward to receiving your analysis.

Sincerely,



CHARLES E. GRASSLEY
Chairman
Committee on the Judiciary



PATRICK LEAHY
Ranking Member
Committee on the Judiciary