

UNITED STATES COPYRIGHT OFFICE

Promoting  
 *creativity*

Through an  
Effective National  
Copyright System

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**ANNUAL REPORT**  
**of the Register of Copyrights**

for the Fiscal Year Ending September 30, 2000

# Message from the Register



I am pleased to present the Fiscal Year 2000 Annual Report of the U.S. Copyright Office.

The Copyright Office administers the Nation's copyright laws and provides legal and policy assistance to Congress and the Executive Branch. As we enter the new millennium, new digital technology issues raise complex and difficult concerns and questions for both copyright owners and those who use copyrighted works. The continued growth in the use of digital technology and computer networks means more Americans are learning about and engaging in activities that involve our national copyright system. Copyright issues are increasingly covered in the media because of their economic and social impacts. Such questions as when exactly does copyright infringement take place in the online world are at the forefront of debates. The use of digital technology and networks has tested, and will continue to test, the legal boundaries of the law and require new solutions and new rules.

In October of 1998, when Congress enacted the Digital Millennium Copyright Act (DMCA) as a part of an effort "to begin updating national laws for the digital era," it gave the Office responsibility for conducting several studies and rulemakings on various subjects related to new technologies. During Fiscal Year 2000, a major focus of the Office's policy and regulatory efforts continued to be the implementation of the tasks associated with this Act. Specific activities related to these studies and rulemakings are covered in detail in this report. This year we began a major, multi-year effort to reengineer our core business processes and services to the public. The way in which we work, the processes we use, and the technology we employ must be able to accommodate the demands of our digital world. We will maximize the use of information technology systems in our redesign of registration and recordation processes and public services.

In this report, I have summarized the Office's work in each of its major areas of responsibility — copyright law administration; policy assistance; regulatory activities and litigation; public information and education; and management. This report outlines the challenges and changes we have faced and the gains and progress we have made in meeting these demands.

Our work this year is a beginning. Much important work remains to be done. As I look to the future, I am confident that we will build upon the accomplishments and progress of this year to ensure a strong, effective and balanced national copyright system. The Copyright Office will continue to lead, serve and safeguard the rights of creators and "promote the Progress of Science and useful Arts..."

The work outlined in this report is the result of the efforts of the staff of the Copyright Office. I thank them for their competence and dedication.

**Marybeth Peters**  
Register of Copyrights



**I**n FY 2000, the Copyright Office registered 515,612 claims, recorded 18,894 documents, created 554,537 catalog records, and collected and deposited approximately \$196 million in royalty fees. The Office transferred material with an estimated value of over \$32 million to the Library for its collections and exchange programs.

# Copyright Law Administration

## COPYRIGHT REGISTRATION



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hrough registration with the Copyright Office, a public record is made of the basic facts of a particular copyright.

During the year, the Office received 588,498 claims to copyright covering more than 800,000 works, and registered 515,612 claims.

The Examining Division is responsible for examination of all original and supplementary claims to copyright as well as renewals of copyright registrations. The division is organized into four sections: Literary, Performing Arts, Renewals, and Visual Arts. Except for renewals, each section receives copyright applications and deposits (copies of the work to be registered) according to subject matter. These materials are examined to determine whether the deposit contains copyrightable material, whether the claimant is entitled to claim copyright, and whether there has been compliance with the U.S. copyright laws and Office regulations.

Again this year, the Examining Division continued with high quantities of work on hand and intensive training for new examiners on how to examine accurately and efficiently. As with the past several years, hiring and training took precedence in order to build an examiner corps capable of handling new technology-related categories of claims.

A major change was made during the year in the way in which the Examining Division trains new examiners. Rather than a first-year training program during which an examiner trainee spends large amounts of time reading the provisions of the law, legislative history and treatises, and discussing theory with a senior examiner, the revised training program covers the law including relevant cases and historical foundations but does so in an incremental way, allowing the trainee to begin hands-on examining during the second week of his or her employment. This approach emphasizes the production aspect of examining work while encouraging an in-depth understanding of the principles of copyright law as they affect the registration process.



Continuing examiner education also took place at quarterly Division meetings during which staff members presented briefings on recent copyright cases and made presentations on current examining issues, including copyrightability, authorship and ownership. In addition, supervisory examiner monthly meetings were used to discuss substantive examining problems and case law. These discussions were shared with staff during monthly team meetings throughout the Division.

Interim examining guidelines were instituted by the Literary Section for use in an ever-increasing volume of claims in the content of websites and other online works. The guidelines allow for the registration of websites by fitting content into analogous current categories until new Office regulations are adopted. Staff in all sections have been trained in the registration of websites. Many website claims involved deposit copies of CD-ROMs and the claims raised questions about the deposit, the basis of the claim, the extent of the claim, and authorship issues, including questions on work made for hire. Most website claims cannot be cleared for registration as initially received.

### Group Registration of Photographs

In April 2000, the Copyright Office proposed regulations to facilitate group registration of published photographs. This is the latest in a series of actions that have taken place since 1995 in an attempt to accommodate photographers, who unlike most other authors, produce vast quantities of copyrightable works in short periods of time.

The latest proposals differ significantly from regulations proposed earlier in this rulemaking proceeding. They require the deposit of the actual photographic images, rather than merely written identifying descriptions for registration purposes. They pertain only to published photographs. This option for group registration of photographs would be available only for registration of works by a photographer that are published within one calendar year. In addition, the Office would liberalize the deposit requirements for groups of unpublished photographs registered as unpublished collections.

### Benefits of Copyright Registration:

- Registration establishes a public record of the copyright claim.
- Before an infringement suit may be filed in court, registration is necessary for works of U.S. origin.
- If made before or within five years of publication, registration will establish prima facie evidence in court of the validity of the copyright and of the facts stated in the certificate.
- If registration is made within three months after publication of the work or prior to an infringement of the work, statutory damages and the possibility of attorney's fees will be available to the copyright owner in court actions. Otherwise, with respect to damages, only an award of actual damages and profits is available to the copyright owner.
- Registration allows the owner of the copyright to record the registration with the U.S. Customs Service for protection against the importation of infringing copies.

## Copyright Office Electronic Registration, Recordation and Deposit System (CORDS)

CORDS is the Copyright Office's automated system to receive and process digital applications and digital deposits of copyrighted works for electronic registration via the Internet from a number of cooperating test partners. Through CORDS, copyright applications can be filed electronically by sending applications and deposits in digital form. The CORDS system facilitates full electronic processing, both initial preparation by the applicants on the "front end" and completely automated processing on the "back end" by the Copyright Office.

During the year, 15,428 claims were received through CORDS. The Copyright Office successfully tested and implemented CORDS system-to-system communications with its largest copyright remitter, Bell and Howell Information and Learning Corporation (formerly UMI), for electronic receipt and processing of claims for digital dissertations. In addition, music claims were processed through CORDS, with MP3 files as the deposit, submitted by the Harry Fox Agency, acting as the agent for member companies of the National Music Publishers Association.

To facilitate receipt of larger digital objects through CORDS in the future, the Office converted to an Ethernet network operating at 100 million bits per second. The Office also took steps to convert

the CORDS database processing to the Oracle Relational Database Management System, which is compatible with the underlying software of the Library's Integrated Library System.

### Works Protected by Copyright:

Copyright protects "original works of authorship" that are fixed in a tangible form of expression. The fixation need not be directly perceptible so long as it may be communicated with the aid of a machine or device.

Copyrightable works include the following categories:

- literary works
- computer programs
- databases (compilations)
- musical works, including any accompanying words
- dramatic works, including any accompanying music
- pantomimes and choreographic works
- pictorial, graphic, and sculptural works
- motion pictures and other audiovisual works
- sound recordings
- architectural works

### Appeals of Registration Actions

During the year, 220 appeals were filed for claims that had been rejected for registration. Most first appeal cases were generated within the Visual Arts Section, primarily involving jewelry and useful articles.

The Copyright Office Board of Appeals, which considers second appeals, met four times and heard 15 second appeals, involving 67 works. During the fiscal year, the Board issued decisional letters responding to 13 second appeals, covering 49 works, registering seven works and denying registration for 42 works.



## Renewals

Under the 1909 copyright law, works copyrighted in the United States before January 1, 1978, were subject to a renewal system in which the term of copyright was divided into two consecutive terms. Renewal registration, within strict time limits, was required as a condition of securing the second term and extending the copyright to its maximum length.

The Office registered 16,807 renewals in FY 2000.

Three examiners, one each from the Literary, VA and PA Sections, were trained in renewals subject matter. This cross-training aims at maintaining a sufficient staff that is knowledgeable and capable of handling future renewal claims.

## Related Registrations

### Vessel Hulls

Vessel Hull design registration receipts this year totaled 29 claims. In late 1999, Congress revised the original vessel hull legislation giving *sui generis* protection to the design of vessel hulls and enacted the Intellectual Property and Communications Omnibus Reform Act of 1999 which, among other things, changed the definition of a “vessel” [...in addition to being able to navigate on/through water, a “vessel” must now be self-propelled and be able to be steered and must be designed to carry at least one passenger] and made chapter 13 a permanent part of title 17. Additionally, the Copyright Office may now assess to a losing party all costs of a cancellation proceeding, regardless of which party initiated the proceeding. Questions from the public continue to challenge the boundaries of what is included in the definition of a “vessel hull” or “deck”.

### Mask Works

The Semiconductor Chip Protection Act of 1984 provides for federal statutory protection for mask works fixed in semiconductor chip products. A mask work is defined as a series of related images, however fixed or encoded, (1) having or representing the predetermined three-dimensional pattern of metallic, insulating, or semiconductor material present or removed from the layers of a semiconductor chip product; and (2) in which the relation of the images to one another is that each image has the pattern of the surface of one form of the semiconductor chip product. Although these images or patterns are purely functional features, they are nevertheless

### The Renewal System

Public Law 102-307, enacted on June 26, 1992, amended the 1976 Copyright Act to make renewal automatic and renewal registration optional for works originally copyrighted between January 1, 1964 and December 31, 1977. Although the renewal term is automatically provided, the Copyright Office does not issue a renewal certificate for these works unless a renewal application and fee are received and registered in the Copyright Office.

**The Vessel Hull Design Protection Act** was signed into law on October 28, 1998. The new law grants an owner of an original vessel hull design certain exclusive rights provided that application for registration of the design with the Copyright Office is made within two years of the design being made public. Vessel hull deposit material may consist of either drawings or photographs of the design.

protected, provided that the particular mask work is neither dictated by a particular electronic function nor is one of only a few available design choices that will accomplish that function.

Mask works registered this fiscal year totaled 758, about 25% fewer than those of previous years.

### **Impact of the July 1999 Filing Fee Increase**

The filing fee increase of July 1999 negatively affected registration processing during the first half of the fiscal year. A fiscal year record of 58,106 claims arrived in the Office with insufficient or “short fees.” These claims required additional processing steps in the Receiving and Processing Division. However, short fee claims declined over the year, from an average of 1,500 per week for the first several months to about 600 per week at the end of FY 2000.

### **Cataloging**

Title 17 requires the Register of Copyrights to provide and keep records of all deposits, registrations, recordings, and other copyright-related matters such as renewals and to prepare indexes of all the records.

The Cataloging Division records the bibliographic description and the copyright facts of all works registered in the Copyright Office. The division also records all works not registered but deposited in the Office. The public record created by the division also includes all documents relating to copyright such as transfers of ownership contracts between authors and publishers, security interests, terminations, and transfers of ownership that are submitted to the Office for recordation. The records provide legal and bibliographic reference access to information of record relating to registrations, deposits, recorded assignments, and other documents.

The Cataloging Division received 526,335 registrations in FY 2000 and created cataloging records for 554,537, a 2% increase over 1999. Supervisors balanced staff resources and managed incoming materials by using intersectional and cross team assistance. Senior catalogers were trained to handle different classes of material as well as multiple title documents. Division supervisors provided cataloging and title input assistance.

The Division also cataloged claims for renewals, vessel hulls, mask works, and CORDS. Processing online service providers’ agent designations is a Cataloging Division responsibility that began in December 1998. By the end of the fiscal year, 1,029 interim designations of agent had been posted to the Copyright Office website.



## RECORDATION

**A**ny document pertaining to a copyright can be recorded in the Copyright Office. Many relate to transfers of ownership. Any or all of the copyright owner's exclusive rights or any subdivision of those rights may be transferred, but the transfer of exclusive rights is not valid unless that transfer is in writing and signed by the owner of the rights conveyed or such owner's duly authorized agent. Recorded documents include assignments, security interests, notices of termination of transfers, statements of death, and notices of errors in the name in a copyright notice.

The Documents Recordation Section received documents with 384,826 titles for recordation this year, an increase of 97% over last year's receipts. The Section cleared 399,088 titles, an increase of 198% over last year's title clearances as a result of the Multiple Title Documents Project, which was a backlog reduction effort. The Section received 15,792 documents and cleared 18,894.

The management of the Documents Recordation Section was reassigned in September 1999 to the Associate Register for National Copyright Programs as an interim measure while the Section began implementing improvements in document processing. In January 2000, the Documents Recordation Section returned to the management of the Cataloging Division.

## MANDATORY DEPOSIT

The mandatory deposit provision of the copyright law provides that the Copyright Office is entitled to receive copies of every copyrightable work published in the United States. Section 704(b) of the Copyright Act states that these published deposits “are available to the Library of Congress for its collections, or for the exchange or transfer to any other library.” The Copyright Acquisitions Division (CAD) uses the mandatory deposit requirement of the 1976 Copyright Act (section 407) as well as Copyright Office regulations to acquire works needed for the collections of the Library of Congress. The copyright statute authorizes the Register of Copyrights to issue demands for the required copies for deposit anytime after publication. The Division acquires works not voluntarily deposited that have been identified as needed for the Library’s collections by the Division’s copyright acquisitions specialists and the Library’s recommending officers. One goal of the Division is to persuade copyright owners to deposit or register works regularly and voluntarily and as soon as possible after publication.

During FY 2000 the Copyright Office, through CAD, transferred to the Library a total of 217,986 copies, with an estimated value of \$6,049,682 received from copyright owners under the mandatory deposit provisions of the Copyright Act. Most of these deposits are made automatically and voluntarily as a result of the Division’s regular and systematic contacts with copyright owners.

### **Expedited Deposits (Speedy Serials)**

The Congressional Research Service (CRS) and the Law Library continue to depend upon CAD’S Speedy Serials Project for the expedited delivery of approximately 335 serial titles. CAD confirmed that only 205 titles are considered active titles with recorded receipts from 1999 to the present. At year’s end, CAD staff was in the process of determining the publication and deposit status of the remaining 130 titles, so formal demands could be issued as appropriate.

## Changes in Practices

The General Counsel was consulted to discuss the interpretation of section 705 of the Copyright Law which states, “The Register of Copyrights shall provide and keep in the Copyright Office records of all deposits,...” To ensure compliance with this section of the law, during the year the following actions were taken:

- **Recording section 407 receipts by the Serial Record Division (SRD, Library of Congress):** The Office drafted a “Housekeeping Amendment” to give the Copyright Office flexibility in keeping and maintaining records relating to copyright deposits. This was introduced, and by the end of the year, it became law as part of the Work Made for Hire and Copyright Corrections Act of 2000.
- **Deposit records for non-selected serials:** The Office decided that once CAD has notified submitters that their titles will not be retained by the Library, neither CAD nor SRD would be required to maintain records or any additional deposits.

## Transfer of Compliance Records Unit

The Compliance Records Unit was officially transferred from the Copyright Cataloging Division to CAD effective September 11, 2000. This reorganization brings together all aspects of administering section 407 of the U.S. Copyright Law under one organizational structure within the Office. It improves the efficiency for monitoring compliance with the mandatory deposit provision and transferring copyright deposits to the Library.



## LICENSING

The Licensing Division administers the compulsory licenses and statutory obligations contained in the Copyright Act. It collects royalty fees from cable operators for retransmitting television and radio broadcasts, from satellite carriers for retransmitting “superstation” and network signals, and from importers and manufacturers for

digital audio recording products. The Division deducts its full operating costs from the royalty fees and invests the balance in interest-bearing securities with the U.S. Treasury for later distribution to copyright owners.

### Statutory Licenses and Obligations:

- Statutory license for secondary transmissions by cable systems (section 111)
- Statutory license for making ephemeral recordings (section 112)
- Statutory license for the public performance of sound recordings by means of a digital audio transmission (section 114)
- Statutory license for making and distributing phonorecords (section 115)
- Statutory license for public performances on coin-operated phonorecord players (sections 116 and 116A)
- Statutory license for the use of certain works in connection with noncommercial broadcasting (section 118)
- Statutory license for secondary transmissions by satellite carriers for private home viewing (section 119)
- Statutory license for secondary transmissions by satellite carriers for local retransmissions (section 122)
- Statutory obligation for distribution of digital audio tape recorders and media (chapter 10)

### Royalty Fee Distributions

The Copyright Office distributes royalties collected under sections 111, 119 and chapter 10.

In FY 2000, the following distributions were made:

- On October 28, 1999, the largest distribution of copyright royalties to date was made totaling \$321,665,999.86. This distribution comprised 98% of the 1993-1996 cable royalties, and 75% of the 1997 royalties.
- On January 13, 2000, satellite carrier royalty fees totaling \$3,937,871.64 were distributed. This was a final distribution of funds covering 1992-1995.
- On January 27, 2000, a partial distribution of the 1995-1998 Digital Audio Recording Technology (DART) royalty funds was made, totaling \$792,975.53.
- On May 25, 2000, a distribution was made totalling \$39,185,398.32 and comprised a full distribution of the remaining 1993-1996 cable television royalties and a \$35 million partial distribution for 1997.
- On June 15, 2000, a full distribution of the Sound Recording Fund for 1999 DART royalties was made in the amount of \$2,242,230.81.

The Division also assisted in reviewing motions for distribution and in developing appropriate distribution decisions.

Financial statements of 1999 royalty fees available for distribution in the cable television and satellite carrier statutory licenses, and in the digital audio recording technology statutory obligation are included in the appendices.

Outstanding royalty investments totaled more than \$614 million during the year, earning \$32 million in interest. Deposits totaled approximately \$196 million in 305 deposits with 3,820 remittances (checks and electronic funds transfer) covering 21,243 statements of account. Electronic Fund Transfers (EFT) now account for 87.9% of royalty fee deposits.

The Licensing Examining Section examines all documents associated with the compulsory licenses and statutory obligations. The Section examined 16,293 cable statements of account and 251 amendments to these statements, 50 DART statements, 15 Satellite Carrier statements, and 1,729 section 114 Notices. A total of \$459,992.71 in additional royalties that would have otherwise been lost was recouped for copyright owners.

### **Satellite Home Viewer Improvement Act of 1999 Implementation**

On November 29, 1999, the Satellite Home Viewer Improvement Act of 1999 (SHVIA) amended section 119 of the Copyright Law, adjusting the royalty rates for superstation and network stations carried by satellite carriers to 18.90 and 14.85 cents per subscriber. The new rates became effective on July 1, 1999. The SHVIA also permits satellite carriers to retransmit the national satellite feed distributed and designated by the Public Broadcasting Service. Further, this legislation also modified the terms “unserved household,” “superstation,” “local market,” and “network station.”

Under the SHVIA, satellite carriers may retransmit no more than two network stations affiliated with a single network in a single day to an “unserved household” not located within the local markets of those network stations. An exception to this provision in section 119(a)(2)(B)(iii) of the law applies to certain C-band satellite services. The SHVIA also created a new royalty-free statutory license in section 122 of the copyright law which authorizes the retransmission of television broadcast stations by satellite carriers to all subscribers located within the local markets of those stations.

### **Implementation of Section 114 License**

Beginning in October 1999, the Division began receiving Initial Notice documents filed pursuant to section 114 of the copyright law and posted them on the Office's website. The filing of an Initial Notice is required in order that copyright owners may receive reasonable notice of use of their sound recordings under the statutory license.

this provision was created on November 1, 1995, when Congress enacted the Digital Performance in Sound Recordings Act of 1995, which gave sound recording copyright owners an exclusive right to perform their works publicly by means of a digital audio transmission, and created a statutory license for certain nonexempt digital subscription services.

This section 114 provision was later expanded with the enactment of the Digital Millennium Copyright Act of 1998 (DMCA) to allow a nonexempt, eligible nonsubscription transmission service and a pre-existing satellite digital audio radio service to perform a sound recording publicly by means of certain digital audio transmissions, subject to the filing of an Initial Notice and certain other record keeping requirements.

The Licensing Information and Examining Sections developed operation and workflow procedures for administering the new license. Under the section 114 license, the Licensing Division receives and examines the Initial Notice documents, and then posts the completed documents on the Copyright Office website. A \$20.00 fee is required for each Initial Notice, or for each service embodied in a Notice for which the remitter requests a separate listing on the website. Copies of the notices are also available for public inspection and photocopying in the Division's Public Records Office.



### Copyright Arbitration Royalty Panels (CARP)

During this fiscal year, the Copyright Office was involved in the administration of five CARP proceedings. Three of the five proceedings involved setting rates and terms for the mechanical license, 17 U.S.C. 115; the digital performance right in sound recordings license, 17 U.S.C. 114; and the ephemeral recording license, 17 U.S.C. 112. The other two proceedings dealt with the distribution of royalty fees collected in accordance with the Audio Home Recording Act of 1992, 17 U.S.C. chapter 10, and the cable statutory license, 17 U.S.C. 111.

### Rate Adjustments

On July 20, 1999, the Office announced the voluntary negotiation period for the proceeding to adjust the rates and terms for the digital component of the section 115 license. The negotiation period ran from the date of publication of the announcement in the *Federal Register* to December 31, 1999. On January 24, 2000, a petition was filed with the Copyright Office to convene a CARP to set new rates and terms for Digital Phonorecord Deliveries. The petition was not acted on during FY 2000, and negotiations continued among interested parties.

The Copyright Office also initiated another rate adjustment proceeding to establish rates and terms for the public performance of sound recordings by means of eligible nonsubscription transmissions such as webcasting (the section 114 license as amended by the DMCA) and the making of an ephemeral recording in furtherance of the permitted public performance of the sound recording (the section 112 license) for the period 1998-2000. The Copyright Office announced the six-month voluntary negotiation periods associated with these licenses on November 27, 1998. The voluntary negotiation periods concluded with no proposed settlement being filed with the Copyright Office.

### Copyright Arbitration Royalty Panels (CARP)

CARPs make determinations about distribution of royalties collected by the Licensing Division for the cable license, the satellite compulsory license, and the digital audio recording devices and media obligation. They also adjust royalty rates. A CARP panel consists of two arbitrators selected by the Librarian of Congress upon the recommendation of the Register of Copyrights, with a third, who is chairperson, selected by the first two. The first CARP proceeding took place in 1996 and determined the distribution of more than \$500 million among copyright owners of broadcast programming retransmitted by cable systems.

Rate adjustments and royalty distribution proceedings under CARPs are divided into two essential phases. The first is the 45-day pre-controversy discovery period during which the parties engage in pre-CARP motions practice and exchange their documentation and evidence in support of their cases, in preparation for the hearings before the CARP.

The second phase is the proceeding before a CARP itself, including the presentation of evidence through hearings and submission of proposed findings by all of the parties. CARPs have 180 days to conduct a proceeding, including receiving evidence and submitting the final written decision to the Register of Copyrights. Within 60 days of receipt of the report, the Librarian of Congress, on the recommendation of the Register of Copyrights, must either accept or reject the panel's determination. If the Librarian rejects the CARP's decision, he has 30 additional days in which to substitute his own determination.

Consequently, the Office announced the schedule for the arbitration proceeding to set the rates and terms for these two statutory licenses on September 27, 1999. On December 22, 1999, the Office vacated the schedule announced in the *Federal Register* at the request of the parties in order to allow more time to negotiate a settlement.

The Office also announced the initiation of the voluntary negotiation period for determining reasonable rates and terms for the amended section 114 and section 112 licenses for the time period 2001-2002. The negotiation period began on January 13, 2000. The Office received a petition to adjust the rates and published a *Federal Register* notice seeking comment on the petition from interested parties and notices of intent to participate in a CARP proceeding,

In January 2000, the Joint Sports Claimants and the Program Suppliers filed petitions asking the Office to initiate a cable rate adjustment proceeding. After extended negotiations, copyright owners and cable representatives reached a settlement as to the adjustment of the royalty rates and gross receipts limitations. The Office published a notice of the settlement in the *Federal Register* to determine whether a CARP proceeding is necessary.

### Distribution Proceedings

The Office began a proceeding to resolve the controversies surrounding the distribution of the 1995-1998 royalty fees collected for the distribution of digital audio recording technology. The remaining controversies existed within the Musical Works Funds for these years. The 180-day arbitration period began on April 10, 2000. Eight parties appeared before the CARP. The arbitrators met with the parties on June 19, 2000, in order to set the schedule for the proceeding. The Panel was to decide the proceeding on the basis of the written pleadings. The parties filed their proposed findings of fact and conclusions of law and their reply findings. At the end of the fiscal year, the Panel was in the process of rendering its final decision. The Panel's report was due to the Librarian by November 13, 2000.

The second proceeding involved the distribution of the 1993-1997 cable royalty fees — an expansion over the Office's initial objective to resolve the remaining controversies for 1993 and 1994 in the next scheduled proceeding. The parties to this proceeding, however, worked out a Phase I settlement for 1993 and 1994, in addition to a Phase I settlement for 1995-1997. Because no controversies remained among the claimant groups for these years, the parties with an interest in these proceedings filed a joint motion on September 29, 1999, with the Copyright Office, requesting the termination of the scheduled Phase I proceedings and the distribution of all funds, excluding a sum sufficient to resolve the outstanding Phase II claims for these years. These funds were distributed on October 28, 1999.

The Office began the proceeding to resolve the Phase II controversies in the distribution of the funds for these years in the Program Supplier category. Settlement was reached by all parties in this category except for the Program Suppliers and the Independent Producers Group, who had a controversy with respect to distribution of the 1997 motion picture and syndicated programming funds. These parties filed their written direct cases on April 3, 2000, and concluded discovery. The 180-day arbitration period was to begin on October 17, 2000, with the arbitrators meeting with the parties on that date in order to set the schedule for the proceeding.

### **Claims Filed for Royalty Fees**

The Office received and processed claims from copyright owners who are entitled to receive royalty fees generated from the use of their copyrighted works during 1999 under the terms of the cable, satellite, and DART compulsory licenses. In January and February of 2000, the Office received 40 claims for DART royalty fees. In July of 2000, it received 580 claims for cable royalty fees and 197 claims for satellite royalty fees. Distribution proceedings will begin for these royalty funds after the Office ascertains whether disagreements exist concerning the distribution of the funds among the claimants.

### **Regulations**

#### NOTICE AND RECORD KEEPING FOR NON-SUBSCRIPTION DIGITAL TRANSMISSIONS

Section 114 of the Copyright Act establishes a statutory license for the public performance of a sound recording by means of digital audio transmissions, provided that the service adheres to the terms of the license and complies with the notice and record keeping regulations promulgated by the Librarian of Congress. Under these regulations, each digital subscription service must file an initial notice of digital transmission with the Copyright Office. The Office extended the original October 15, 1999, deadline for filing such notices to December 1, 1999, at the request of the National Association of Broadcasters.

#### COST OF LIVING ADJUSTMENT FOR PERFORMANCE OF MUSICAL COMPOSITIONS BY COLLEGES AND UNIVERSITIES

Each year, the Copyright Office adjusts the rates for the public performance of musical compositions in the ASCAP, BMI, and SESAC repertories by public broadcasting entities licensed to colleges and universities to reflect the change in the Consumer Price Index. The Office published the rates, adjusting for a 2.6% cost of living increase, on December 1, 1999.



## DEFINITION OF AN UNSERVED HOUSEHOLD FOR THE SATELLITE CARRIER STATUTORY LICENSE

Prior to the passage of the Satellite Home Viewer Improvement Act of 1999 (SHVIA), the Copyright Office opened a rulemaking proceeding to consider whether the existing section 119 satellite compulsory license for the retransmission of over-the-air television broadcast signals included the retransmission of local signals. Because Congress amended the satellite license expressly to include local signals, the Office terminated the rulemaking proceeding.

## DEFINITION OF A SERVICE FOR THE PUBLIC PERFORMANCE OF SOUND RECORDINGS

The Copyright Office issued a notice of proposed rulemaking to determine the scope of the definition of a “service” under section 114 of the Copyright Act which grants the copyright owners of sound recordings a limited performance right. The Recording Industry Association of America requested the rulemaking and asked that the Office determine that broadcasters who transmit their over-the-air radio signal over the Internet are not exempt from copyright liability. At the end of the fiscal year, the Office was considering the comments received on the proposed rule.

## DEFINITION OF AN INTERACTIVE SERVICE FOR THE PUBLIC PERFORMANCE OF SOUND RECORDINGS

The Copyright Office issued a notice of inquiry regarding a petition for rulemaking received from the Digital Media Association (DiMA). DiMA requested that the Office interpret the definition of an “interactive service” in section 114 of the Copyright Act to exclude webcasters of recorded music who make limited inquiries of their subscribers’ musical preferences. The Office sought public comment on how to proceed with DiMA’s petition and whether a rulemaking proceeding is necessary or appropriate. At the end of FY 2000, the Office was considering the comments received in response to the notice of inquiry.

## ADJUSTMENT OF THE CABLE STATUTORY LICENSE ROYALTY RATES

Every five years the royalty rates for the section 111 cable statutory license may be adjusted upon petition to the Copyright Office. The Office received two such petitions and prepared to initiate a Copyright Arbitration Royalty Panel proceeding to adjust the rates. The parties to the proceeding, however, reached a settlement, and the Office published the proposed rate adjustments. The rates paid by cable operators for the retransmission of over-the-air broadcast signals were increased, as were the gross receipts limitations determining the calculation of the royalty fees.



**A**s part of the  
Legislative Branch, the  
Copyright Office works  
closely with the Congress  
in providing policy analysis  
and recommendations on  
national and international  
copyright issues.

# Policy Assistance, Regulatory Activities, and Litigation

## LEGISLATION



**T**he Copyright Office provides expert assistance to Congress on copyright matters; advises Congress on anticipated changes in U.S. copyright law; analyzes and assists in the drafting of copyright legislation and legislative reports; and undertakes studies for Congress.

### **Intellectual Property and Communications Omnibus Reform Act of 1999**

The Office advised Congress on many aspects of the Intellectual Property and Communications Omnibus Reform Act of 1999 (IPCORA). A key provision of this law renewed for another five years the statutory license of section 119 of title 17 in the Satellite Home Viewer Improvement Act (SHVIA). Numerous modifications to the licensing scheme were adopted, including allowing satellite companies to retransmit local network broadcasts. IPCORA also made permanent the Vessel Hull Protection Act by removing the two-year sunset provision that had originally been included in that law. Also, a requirement that the Office produce a short-term study on the Vessel Hull Protection Act appeared in the original Act but was deleted by this amendment. Another study on this form of protection was postponed until 2003.

At the request of the Copyright Office, Congress amended section 1201 of the Digital Millennium Copyright Act (DMCA) to permit the Office to conduct the anticircumvention rulemaking through the widely-used informal notice-and-comment rulemaking process instead of the cumbersome formal “on the record” process that the statute, as originally enacted, appeared to require. Congress also included in IPCORA a provision adding sound recordings to the list of commissioned works that may be works made for hire. The amendment later became controversial and spawned new legislation, which is discussed below.

Another issue considered was whether retransmissions of network broadcasts on the Internet are covered by the statutory license in section 111 of title 17. Language was proposed clarifying that they are not; others proposed language that would include such retransmissions in the



111 license. The Copyright Office worked with congressional staff and advised them that retransmissions of broadcasts on the Internet are not and should not fall within the 111 license. Congress chose not to enact either proposal, allowing the language of section 111 to stand as it was.

### State Sovereign Immunity

At the end of its 1999 term, the U.S. Supreme Court issued opinions in *Alden v. Maine*, *College Savings v. Florida Prepaid*, and *Florida Prepaid v. College Savings*. Taken together, these opinions reshaped the scope of state sovereign immunity and Congress's authority to abrogate that immunity. Under the new framework, by invoking their immunity, states can escape monetary liability for copyright infringement. Ever since those decisions, Congress has been addressing the issue of how to reinstate full enforceability of the copyright law. The Office has worked closely with congressional staff, the Patent and Trademark Office, and industry representatives in analyzing this problem and searching for a solution. The House Judiciary Committee's Subcommittee on Courts and Intellectual Property held a hearing on this issue on July 27, 2000, at which the Register testified. The matter is likely to remain under discussion in the next Congress.

### Sound Recordings as Works Made for Hire

As noted previously, in IPCORA Congress added sound recordings to the categories of specially-commissioned works that are eligible to be works made for hire. Subsequent to that enactment, a significant controversy arose concerning both the procedural history of the provision as well as its effect. On May 25, 2000, the Register testified at a hearing of the House Judiciary Committee's Subcommittee on Courts and Intellectual Property. In September 2000, a bill (H.R. 5107) to repeal the provision without prejudice to any viewpoint was introduced and passed by the House of Representatives. At the end of the fiscal year, the bill was pending in the Senate.

### Copyright Office: General Responsibilities

Title 17, U.S. Code, describes the functions and duties assigned to the Register of Copyrights to include:

- Advise Congress on national and international issues relating to copyright, other matters arising under this title, and related matters.
- Provide information and assistance to federal departments and agencies and the Judiciary on national and international issues relating to copyright, other matters arising under this title, and related matters.
- Participate in meetings of international intergovernmental organizations and meetings with foreign government officials relating to copyright, other matters arising under this title, and related matters, including as a member of United States delegations as authorized by the appropriate executive branch authority.
- Conduct studies and programs regarding copyright, other matters arising under this title, and related matters, the administration of the Copyright Office, or any function vested in the Copyright Office by law, including educational programs conducted cooperatively with foreign intellectual property offices and international and intergovernmental organizations.
- Perform such other functions as Congress may direct, or as may be appropriate in furtherance of the functions and duties specifically set forth in this title.

### **Distance Education**

On July 20, 2000, the Register urged the Congressionally-established Web-Based Education Commission to recommend to the President and Congress changes in the copyright law to allow the use of copyrighted materials in distance education courses similar to uses now allowed in section 110(2).

The Register summarized the Copyright Office's findings in its 1999 report to Congress on "Copyright and Digital Distance Education," including the Office's recommended amendments to the Copyright Act to update the current educational exemptions to cover certain educational activities taking place through digital technologies. She also provided the members with a brief update of developments that have occurred in the year since the Office submitted its report.

The Register's appearance before the 16-member commission was at the fourth of five hearings the commission held. Established in November 1999 to develop specific policy recommendations geared toward maximizing the educational promise of the Internet for pre-K, elementary, and post-secondary education leaders, the commission planned release of a final report in late November 2000. It was chaired by Senator Bob Kerrey (D-NE), with Representative Johnny Isakson (R-GA) as the vice chair.

### **Copyright Technical Corrections and Housekeeping Amendments**

Two bills introduced in the House during the Second Session of the 106th Congress contained amendments requested by the Copyright Office. H.R. 5106 contained purely technical corrections to title 17. H.R. 5107, in addition to the sound recording language discussed earlier, contains certain amendments to clarify existing provisions in title 17. For example, it amended section 708 to remove the dollar amounts listed as fees because those amounts are no longer current. The other changes were similarly non-substantive and non-controversial. Both bills had passed the House of Representatives and were pending in the Senate at the end of the fiscal year.

### **Transmitting Sound Recordings on the Internet**

In the past year, certain Internet sites offering visitors the opportunity to hear or even copy popular music have become widely used. Two of those sites, MP3.com and Napster (further discussed in this report) are defendants in much publicized copyright infringement cases. In addition, there has been discussion of legislation that would expressly permit these types of services to avoid copyright liability. This could become a major issue in the coming year in Congress. The Office expects to play a substantial role in advising Congress as the issue progresses.

### **Oversight Hearing**

On May 25, 2000, the Register testified at a Copyright Office oversight hearing held by the House Judiciary Committee's Subcommittee on Courts and Intellectual Property. Her statement reviewed the Office's operations, major accomplishments, and challenges during the past year. She emphasized the increased workload due to new legislative mandates and the adoption of new fees. She reviewed the Office's response to new congressional directives, especially those contained in the DMCA. She noted the Office's progress in providing a higher level of security for material submitted for copyright registration, developments in CORDS, and steps being taken to reduce arrearages in some essential copyright services.

### **Loan Guarantees for Satellites to Serve Rural Areas**

A Copyright Office Senior Attorney testified before the Senate Banking Committee on a proposal to provide federal loan guarantees for satellite television companies to construct and deploy new satellites that would serve people living in rural areas. The proposal was not enacted into law.

### **Digital Millennium Copyright Act (DMCA) Studies**

The Copyright Office and the National Telecommunications and Information Administration (NTIA) were directed by Congress to study the effects of section 1201(g) of title 17 (added by the DMCA) on encryption research. That section created very limited exceptions to the anti-circumvention prohibition for encryption research that were aimed at research targeting flaws and vulnerabilities in cryptographic systems for controlling access to copyrighted works. Comments from the public were solicited. None identified a current, discernable impact on encryption research and the development of encryption technology. Every concern expressed was prospective and speculative. Consequently, the joint report issued in May 2000 concluded that it was premature to draw conclusions or to suggest any legislative changes.

The Copyright Office and the NTIA are also required to examine the effects made by the DMCA and the development of electronic commerce on the operation of sections 109 and 117 of the copyright law (title 17, United States Code), as well as the relationship between existing and emerging technology and the operation of those sections. Section 109 permits the owner of a particular copy to sell or otherwise dispose of that copy without the authority of the copyright owner. Commonly known as the "first sale doctrine," it is this section that permits lending of books by libraries as well as the sale of used books. Section 117 permits the owner of a copy of a computer program to make a copy or adaptation of the program for archival purposes or as an essential step in utilizing the program. Public comment was sought, and a public hearing was scheduled for November 2000.



## INTERNATIONAL ACTIVITIES



rotection against unauthorized use of a copyrighted work in a particular country depends, principally, on the national laws of that country. Most countries offer protection to foreign works under certain conditions, and these conditions have been greatly simplified by international copyright treaties and conventions.

The Copyright Office continued to work cooperatively with the executive branch on international matters — most often with the United States Trade Representative (USTR), the Patent and Trademark Office, and the Department of State.

The primary activity on the multilateral front in FY 2000 was an effort to seek international protection for audiovisual performers, principally television and screen actors. Work on a new treaty has continued for more than three years. Agreement was reached to hold a Diplomatic Conference in Geneva, Switzerland, in December 2000 under the auspices of the World Intellectual Property Organization (WIPO). WIPO is a specialized agency of the United Nations that administers a number of international unions or treaties in the area of intellectual property, such as the Paris and Berne Conventions. The Register and the Policy and International Affairs (PIA) staff were involved in U.S. preparations for the Diplomatic Conference and in bilateral and multilateral meetings in advance of the conference. The purpose of these meetings was to try to achieve consensus around proposals that were acceptable to the United States.

The Copyright Office represented the United States in the World Trade Organization (WTO), working closely with USTR, to defend section 110(5) of the U.S. Copyright Act against a challenge by the European Union (EU) that this exception for the public performance of copyrighted works in small businesses violated U.S. treaty obligations — the Berne Convention and the TRIPS Agreement (WTO Agreement on Trade-Related Aspects of Intellectual Property Rights). The briefs and oral arguments were partially successful — subsection (a) was found to comply with U.S. treaty obligations but the new subsection (b) was deemed to violate them. The United States has been asked to remedy the violation by July 27, 2001.

The PIA staff participated, as part of the U.S. delegation, in the continuing work of the World Trade Organization Council on TRIPS. The TRIPS Council is responsible for monitoring the operation of the TRIPS agreement, and, in particular, how members comply with their obligation under it. This included the continuing effort to review the intellectual property laws of developing countries for compliance with TRIPS obligations.

PIA staff were members of the U.S. delegation to the Intellectual Property Negotiating Group of the Free Trade Area of the Americas held throughout FY 2000. The goal of the negotiating group is to prepare and finalize an IP chapter for a Free Trade Area of the Americas Agreement. The overall agreement is due to be completed by 2005. In addition, PIA staff were instrumental in the drafting of U.S. treaty proposals.

Staff members participated in negotiating the intellectual property provisions of a Free Trade Agreement with representatives of the Kingdom of Jordan.

PIA staff represented the Copyright Office on the inter-agency Special 301 Committee which considers and evaluates the adequacy and effectiveness of intellectual property protection and enforcement throughout the world. This annual process, which is established under U.S. trade law, is one of the tools used by the U.S. Government to improve protection for creators, inventors, and other holders of intellectual property rights worldwide.

Copyright Office staff also actively participated in many bilateral negotiations and consultations during the year, including those held in Mexico, Paraguay, the Dominican Republic, the People's Republic of China, South Korea, Bulgaria, the Bahamas, Malaysia, Taiwan and Japan. They met almost weekly with foreign officials and visitors interested in learning about the U.S. copyright system and exchanging information about topics of mutual concern.

The Copyright Office participated in many symposia and conferences sponsored by the WIPO, the United States Information Agency (USIA), and U.S. Agency for International Development (USAID). The Register made presentations on the challenge of new technology and the enforcement provisions of TRIPS at a WIPO symposium for Asia and Pacific Countries held in New Delhi, India. An attorney on the PIA staff made similar presentations at WIPO programs held for Indian officials in Hyderabad and Calcutta, and the Register participated in the WIPO-IP Australia Regional Symposium on Strategic Management of Intellectual Property in the 21st Century held in Sydney, Australia.

In November 1999, the Copyright Office hosted worldwide participants at the <Indecs> Conference, "Names, Numbers, and Networks: Metadata, Intellectual Property, and E-Commerce: the Way Ahead." <Indecs>, an international collaborative project, seeks to foster the global exchange of information about electronic information and works in digital form to facilitate electronic commerce.

## COPYRIGHT OFFICE REGULATIONS

In addition to the other regulatory activities discussed in this report, regulatory actions issued during FY 2000 included the following:

### **Section 1201 Notice of Inquiry**

Pursuant to section 1201 of the Digital Millennium Copyright Act (DMCA), the Copyright Office began the process of its rulemaking to determine what (if any) particular classes of works would be exempt from the general prohibition on circumvention of technological measures that control access to works protected by copyright.

On November 24, 1999, the Office initiated the rulemaking proceeding with publication of a Notice of Inquiry. The Notice of Inquiry requested written comments from all interested parties, including representatives of copyright owners, educational institutions, libraries and archives, scholars, researchers and members of the public. The Office devoted a great deal of attention in this Notice to setting out the legislative boundaries and developing questions related to the criteria Congress had established. The Office was determined to make the comments it received available immediately in order to elicit a broad range of public comment; therefore, it stated a preference for submission of comments in electronic formats. On March 17, the Office set two hearings, one in Washington D.C. on May 2-4, and one in Palo Alto, California at Stanford University on May 18-19; and set a June 23, 2000, deadline for submission of post-hearing comments. All of these notices were published in the *Federal Register*, and also on the Office's website.

In response to the Notice of Inquiry, the Office received 235 initial comments and 128 reply comments. Thirty-two witnesses representing over 50 groups testified at the five days of hearings held in Washington, D.C. and California. The Office placed all initial comments, reply comments, optional written statements of the witnesses and transcripts and audio recordings of the two hearings on its website shortly after their receipt. Following the hearings, the Office received 28 post-hearing comments, which were also posted on the website. All of these commenters and witnesses are identified in the indexes that appear on the Office's website.



The comments received represent a broad perspective of views ranging from representatives or individuals who urged there should be broad exemptions to those who opposed any exemption; they also included a number of concerns about various other aspects of the DMCA. The Copyright Office exhaustively reviewed and analyzed the entire record, including all of the comments and the transcripts of the hearings in order to determine its recommendation to the Librarian of Congress whether any class of copyrighted works should be exempt from the prohibition against circumvention during the next three years. The rulemaking was ongoing at the end of the fiscal year.

### **Information Given by the Copyright Office**

The Office proposed amendments to its regulations governing information given to the public for litigation purposes in cases where the application for registration is still in-process (meaning not finalized and placed in a closed file). It is anticipated that the final regulation will also publish in regulatory text the existing requirement for submission of a Litigation Statement when a qualified third party needs copies of material accompanying a registration claim under these regulations. The amendments will allow a qualified party to get a copy of in-process registration materials and will also provide information about how one may access these materials. The Office received comments in response to its proposals, and plans to publish the final regulations in the next fiscal year.

### **Notice of Intent to Enforce (NIE) Publications of Corrections**

Although copyright is restored automatically in eligible works, the Uruguay Round Agreements Act (URAA) directs the owner of such work to notify *reliance parties* if the owner of the rights in a restored work plans to enforce those rights. A reliance party is typically a business or individual who, relying on the public domain status of a work, was already using the work prior to the date of enactment of the URAA.

Although copyright owners from many countries are no longer eligible to serve constructive notice by filing a NIE with the Copyright Office because the statutory period for recordation by the Office has expired, NIE error correction may continue, if such correction would not nullify the NIE on record. On August 1, 2000, the Office published in the *Federal Register* one such NIE filing correcting the authorship of a previously filed NIE.

## LITIGATION

The Copyright Office becomes involved in litigation in five different contexts: (1) when it is asked to assist the Department of Justice in defending a lawsuit in which the constitutionality of a federal copyright statute is challenged (as in *Eldred v. Reno*, discussed below); (2) on the rare occasions when the Office is sued; (3) when the Office elects to intervene, pursuant to 17 U.S.C. §411 (a) in a copyright infringement suit filed by a claimant whose application for copyright registration has been refused; (4) when the Office files suit pursuant to 17 U.S.C. §407 to compel the deposit with the Library of Congress of a work published in the United States; and (5) when the Office works with the Department of Justice in connection with an *amicus curiae* brief in litigation involving important issues of copyright law and policy.

### **Eldred v. Reno**

The Copyright Office assisted the Department of Justice in its defense of a lawsuit filed by parties who asserted that Congress's passage of the Sonny Bono Copyright Term Extension Act, which amended chapter 3 of the 1976 Copyright Act, constituted, among other things, a taking of works that would have, but for enactment of term extension, fallen into the public domain upon the effective date of the Act (October 27, 1998). The parties, both commercial and non-commercial, were in the business of taking public domain works and making them available to the public, e.g. via the Internet. The Act generally extended the protection for works of authorship under U.S. law by twenty years. The U.S. District Court for the District of Columbia ruled in favor of the defendant. The case was appealed to the U.S. Court of Appeals for the District of Columbia Circuit. The Office assisted the Department of Justice on the appeal which was briefed and argued during the fiscal year.

### **Raquel v. Education Management Corp.**

On its application for registration, the petitioner in this case described the nature of the work as “audiovisual” when the actual work registered was a musical work that was fixed on a videotape submitted to the Office with the application form. The application form also gave the nature of authorship as being “all music & lyrics & arrangements.” The Copyright Office issued a registration. When the applicant sued for copyright infringement of the performance of the song, the respondent attacked the certificate of registration as relating to a copyright in the videotaped commercial rather than the song in the commercial. The district court dismissed the complaint.

Petitioner appealed to the Third Circuit, which held that the description of the nature of the work as an “audiovisual work” was a material misstatement and that it was not inadvertent. Applying the principle that a knowing failure to advise the Copyright Office of facts, which might have occasioned the rejection of the application, constitutes reason for holding the registration invalid and incapable of supporting an action for infringement, the Third Circuit affirmed the decision of the district court.

The Solicitor General filed an *amicus* brief on behalf of the Copyright Office asserting that the Third Circuit was in error, in that the Office was not misled by the information contained in the registration form. While the Office did not believe the case warranted plenary review, it requested that the Third Circuit’s decision be summarily vacated under a practice known as “GVR’ing” (or grant, vacate, and remand) in light of the Office’s intervening Notice of Policy Decision published in the *Federal Register* on July 5, 2000. In this Policy Decision, the Office explained that it is not an error to describe the physical nature of the deposit in the “nature of the work” space. It is the “nature of authorship” space that the Office uses to determine the nature of the copyright claim, as stated in the *Compendium of Copyright Office Practices*.

### **A&M Records, Inc. v. Napster**

The Copyright Office proposed and participated in the Department of Justice’s filing of an *amicus* brief for the government with the Ninth Circuit Court of Appeals in this case. The defendant operates a file-trading service that provides a forum for its users to exchange digital files of sound recordings. The plaintiffs sued, claiming that their copyrighted sound recordings had been copied on the defendant’s system and that the defendant is vicariously liable and a contributory infringer of the plaintiff’s copyrights. The defendant argued, *inter alia*, that section 1008 of the Audio Home Recording Act insulated it from liability in this case. The government’s brief was filed solely to address that issue and argued that the Act does not cover the defendant’s activities. At the end of the fiscal year, the case was pending before the court.

### **Southco v. Kanebridge**

The Copyright Office assisted the Department of Justice in drafting an *amicus* brief which the government filed with the Third Circuit Court of Appeals. Both parties in this case are manufacturers of nuts, screws, and other hardware. The plaintiff filed a copyright infringement suit, claiming that the defendant’s use of its hardware part numbers in advertising and comparison charts infringed the copyright in the part numbers. The district court agreed and issued an injunction against the defendant. The government’s brief argued that the part numbers at issue did not possess sufficient creativity to support copyright protection, that even if they did, the



part numbers are analogous to titles and therefore not entitled to protection, and that even if the part numbers are copyrightable, the defendant's proposed use was within permitted fair uses. The Department of Justice was given the opportunity to partake in the oral argument and staff from the Copyright Office assisted in the preparations for that task. The case was pending before the court at the end of the fiscal year.

### **SmithKline Beecham v. Watson**

The Copyright Office participated in numerous inter-agency discussions concerning this unusual case. The defendant is a generic drug manufacturer who sought an abbreviated drug approval pursuant to the Hatch-Waxman Act from the Food and Drug Administration (FDA). The plaintiff is the pharmaceutical company that held the patent on the drug (nicorette gum) for which the defendant sought to market a generic equivalent. The FDA settled on a policy requiring the defendant to market its drug with a document virtually identical to the plaintiff's narrative regarding both proper use of the gum and how to quit smoking, generally. The plaintiff sued for infringement of its copyright in that document. Ultimately, the FDA refused to allow the defendant to modify the language of the document so as to avoid infringement, and the Justice Department chose to defend the FDA's position. The Second Circuit ruled that the Hatch-Waxman Act implicitly created an exception to general copyright law and found no infringement.

### **Peters v. Khayyam Publishing Co.**

On behalf of the Library of Congress, the Department of Justice filed a civil action under section 407 of the copyright law to compel deposit of a serial. The publisher, Khayyam Publishing Company, had refused repeated requests to deposit certain issues of *Advances In Differential Equations*, and due to the lack of cooperation, the government was forced to take the unusual step of filing an action in federal court. Under the statute, failure to comply with a demand for deposit may result in a fine of \$250 per work plus the retail cost of acquiring the copies.

### **Schwarz v. Register**

The Register and the FOIA Officer were named as parties in this pro se suit against more than 20 defendants. The plaintiff seeks records on Nazi infiltration and alleges that she is the daughter of L. Ron Hubbard and the granddaughter of Dwight D. Eisenhower. Despite the fact that the Office keeps no such records, Ms. Schwarz alleged that the Office's response that it had no records violated her rights under FOIA. The Department of Justice has filed an answer to the complaint on behalf of all named defendants.



# United States Copyright Office

The Library of Congress

*"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"*  
(U.S. Constitution, Article 1 Section 8)

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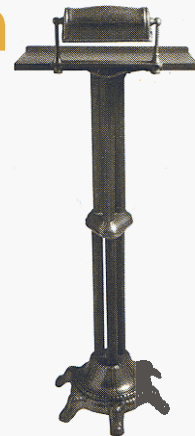
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**T**he Copyright Office responds to public requests for information and engages in outreach programs to inform the public discussion on copyright issues. In Fiscal Year 2000, the Copyright Office website logged 9.4 million hits, and the Office responded to 383,513 requests for copyright information.

# Public Information and Education



The provision of information on copyright law and its application is a principal function of the Copyright Office. The demand for information on copyright is increasing as the growth in the use of digital technology involves more Americans in copyright issues in the course of their daily lives. The Office both responds to requests for information and advances copyright education by initiating and participating in conferences and meetings on copyright issues.

The Public Information Office responded to 125,000 telephone inquiries, 18,145 letter requests and 11,900 electronic mail requests for information from the public. It also assisted some 12,000 members of the public in person, taking in 23,000 registration applications and close to 3,000 documents for recordation.

The Copyright Office website continued to play a key role in disseminating information to the copyright community and the general public, as the site had 9.4 million hits during the year, a 67% increase over the prior year. Numerous additions and enhancements were made to the website throughout the year. The updated version of the copyright law with the latest amendments was made available on the website in both text and PDF formats, giving the public alternate ways to access the copyright law online. The public can also obtain copies of all the copyright registration forms which were converted to fill-in versions so that applicants can complete the forms on their personal computers and print them out for submission.



For the first time, the Copyright Office made it possible for the public to submit comments electronically in response to a Notice of Inquiry in a rulemaking proceeding dealing with the impact of section 1201 of the Digital Millennium Copyright Act (DMCA). All initial comments and reply comments received by the Office were posted on the website for public review. The Office made audio transcripts of the Office's hearings in the proceeding available on the website so that a much wider audience could benefit from the discussions.



**NewsNet** is a free, electronic newsletter that alerts subscribers to hearings, deadlines for comment, new and proposed regulations, new publications, and other copyright related subjects. *NewsNet* is available through a free subscription, and each issue is accessible on the Copyright Office website: [www.loc.gov/copyright](http://www.loc.gov/copyright).

The Reference and Bibliography Section assisted the Office in completing an exhaustive search of the copyright registrations claimed by each of the fifty states. This data was used in relation to work on the issue of state sovereign immunity.

The total number of titles searched, 63,250, increased 6.6% from the previous year while the number of search reports prepared, 7,413, declined 6.6%.

For the first time, the Certifications and Documents Section began responding to electronic mail requests from the public with the activation of an email address for the section. The Deposit Tracking System was installed to provide improved security and better accountability for deposits retrieved from off-site storage by maintaining an automated record of retrievals and by generating automated periodic notices to return deposits upon completion of work. The section produced for the public 1,244 copies of deposits, 4,218 additional certificates of registration and 844 certifications.

The Copyright Office electronically published 41 issues of *NewsNet* during the year. The number of subscribers to this electronic news service increased to 4,317 by the end of the fiscal year, a 17% rise over the prior year.

The Clerical Support Unit responded to 36,857 letter requests and 64,203 telephone requests from the public for forms and publications. As a result of these requests, a total of 97,055 packages of publications were mailed out to the public.



During the year, 323,466 deposits were processed for storage at the Deposit Copies Storage Unit, constituting some 6,367 cubic feet. The Copyright Office records and deposits stored off-site at the Washington National Records Center were transferred to a private records storage facility in Pennsylvania. This transfer began in December 1999 and continued throughout the fiscal year as some 75,000 cubic feet of records and deposits were transferred at a savings of more than \$140,000 per year.



**T**he Copyright Office was established as part of the Library of Congress in 1870. The Register of Copyrights serves as the Associate Librarian of Congress for Copyright Services and is a member of the Library's Executive Committee. The Office's infrastructure needs are supported by the Library.

# Management



**T**he Copyright Office employs approximately 500 staff.

The Fiscal Year 2000 annual budget was more than \$37 million, around \$21 million of which came from fees.

## **Business Process Reengineering (BPR)**

In FY 2000, the Copyright Office began a major multi-year Business Processing Reengineering (BPR) project. The initiative is aimed at producing a more efficient and effective customer-based registration and recordation process by:

- improving public service by reducing processing times (providing certificates rapidly and getting copyrighted works more quickly into LC collections);
- creating more timely public records, and responding within optimum time frames to requests from the public;
- enhancing security by reducing material loss, excessive movement and handling of materials;
- containing costs so that service fees can be maintained, and to avoid additional future costs of staffing in an inefficient process; and
- making more efficient use of staff and space.

The initial statement of work for a BPR contractor was completed in December 1999 and the Request for Quote was issued in early March 2000. In early May 2000, a ten-member Technical Evaluation Panel was appointed, composed of members from all affected divisions, as well as representatives from the Library's Information Technology Services unit and the labor organizations. This panel reviewed the proposals received and issued its rating memorandum in early June. A final proposal was received and accepted in August. The selection of PricewaterhouseCoopers LLP (PwC) to conduct the BPR study was announced later that month.

A BPR Project Manager was appointed to oversee this effort within the Office.

Senior managers received BPR training in April 2000. Additional training for supervisors and staff was to begin in October 2000.

The Project Manager and senior Copyright management officials began meeting with PwC in September 2000 to lay out a plan for completing the study with full involvement from Copyright Office management and staff.

### **Budget**

The Copyright Office receives three appropriations from Congress: BASIC, Licensing and CARP. Total fiscal 2000 Copyright budget authority was \$37,485,014 with a full time equivalent (FTE) staff ceiling of 516. The Licensing budget activities (\$2,989,000) and the CARP budget activities (\$2,465,000) were fully funded from user fees withdrawn from the royalty pools. The BASIC appropriation (\$32,031,014) funds the majority of the Office's activities.

The total BASIC appropriation derives its funding from two revenue sources: net appropriation from funds from the U.S. Treasury (\$11,231,014) and offsetting collections authority for user fees (\$20,800,000). At the end of the fiscal year, the Office had collected \$21,947,301 in user fees. Any over collection or underspending of collected fees were deposited into a special "No-Year Account" set up by Congress in a 1998 law. The No-Year Account provides the Office with a reserve for operational improvements to meet customer public service needs. Access to funds in this account is contingent upon congressional approval through the annual appropriation process.

### **Investment Income From Deposit Accounts**

In FY 2000, the Receiving and Processing Division increased substantially the amount of deposit account holdings invested in U.S. securities. At the end of FY 1999, \$2,529,000 of deposit account funds were invested; this amount was increased to \$3,300,000 at the end of FY 2000. The funds were invested in treasury bills maturing at 3-month intervals. A total of \$144,153 in interest was earned from investments during the fiscal year, an increase of \$16,363, or 13% in earnings over last year.

### **Management Control Reviews**

During FY 2000, the Office conducted Vulnerability Assessments for all 17 copyright management control modules. Fourteen modules were assessed at medium risk, and three at low risk. The modules were then scheduled for control reviews during the next four years, based upon the assessments, with delays in a few cases to allow for business process reengineering. In FY 2000, four control reviews were conducted:

- Module 2.1.3 – Copyright (Basic), Cash Receipts
- Module 2.1.6 – Copyright (Basic), Financial Reporting
- Module 2.2.3 – Copyright Licensing, Cash Receipts
- Module 2.2.5 – Copyright Licensing, Distributions



Reviews of Modules 2.1.3 and 2.2.3 found deficiencies that were neither reportable conditions nor material weaknesses. The Office developed corrective action plans in June along with the reviews, and also completed an official assurance memorandum reporting on prior year conditions.

## Security

### Marking and Tagging

The Mail Center continued to take steps toward full-scale marking and tagging of deposits to assure that items are marked as Copyright Office and Library property from the point of entry. Marking and tagging is a preparatory step for the item level tracking initiative to follow in FY 2001 or 2002.

Funding supporting the security goal of marking and tagging permitted the hiring of 12 additional staffers to accomplish this work beginning in December 1999.

The computer-driven laser device purchased in FY 1999 for the purpose of marking deposit copies received in standardized media such as compact disks, video and audio cassettes, was placed into operation. The Mail Center began by marking all 1/2 inch videocassettes received beginning February 2000. In June, CDs and CD-ROMs were added. Two additional laser-marking machines purchased during the fiscal year were scheduled to arrive in October 2000 and will permit marking of audio cassettes and, perhaps, other formats. In August, the Mail Center began to place Library PIN labels on book materials.

The Library's Preservation Directorate conducted durability tests on CDs and determined that the laser marking had no adverse effect on CDs. The Preservation Directorate will conduct longevity testing to determine whether the engraving influences the recorded data. The Copyright Office provided funding for the purchase of two testing chambers to be used in this testing. The selected chambers were purchased in September 2000, and delivery is expected in early FY 2001.

### **The Automated Reader Registration Program**

is a Library of Congress security program in which members of the public gain access to records by registering as a user. The public service areas of the Copyright Office participate in this program. The primary purpose of the program is to provide patrons with identification, which permits them use of the copyright resources. Registered patrons are issued a reader identification card, valid and renewable for two (2) years.

### Reader Registration Program

The Copyright Office completed planning for the proposed Reader Registration Program, which will be implemented in five public service areas: Certifications and Documents Section, Card Catalog, Examining Renewals Section, Records Maintenance Unit, and the Licensing Division Public Records Office. Implementation awaits completion of required electrical work.

## Automation

During FY 2000, the Copyright Automation Group (CAG) made progress on several major projects, including the transition of all Copyright Office systems into the year 2000.

### Integrated Copyright Office Record (ICOR)

Meetings were held with staff from all Copyright Office divisions and the Library's Information Technology Services (ITS) to discuss and plan the evolution of our present systems into an integrated data structure within the Oracle environment. All present system work is now being done with this goal in mind. The new COINS system will form the foundation for ICOR followed by the Copyright Imaging System (CIS), CORDS and Copyright Office Publication & Interactive Cataloging System (COPICS).

### Copyright Imaging System

Work began on the redevelopment of the Copyright Imaging System. Collaborating with ITS staff, the CAG convened a task group of users from all divisions to review the requirements and to provide the developers with the information they need to build a new system with the same or improved functionality. The plan is to replace the present system by the end of 2001 with a new non-proprietary system that performs the same functions. The use of a non-proprietary system will result in a dramatic reduction in annual maintenance costs.

### Network and Workstation Installation and Upgrading

Eighty-four personal computer workstations were upgraded this year to Pentium processors running the Windows 98 operating system. Two hundred and thirty-four workstations were upgraded from token ring wiring to Ethernet providing up to 100 megabit transfer speed.

### Serial Discards System

The CAG developed a system for the Copyright Acquisitions Division (CAD) to record the receipt of serial publications submitted under section 407 of the copyright law which the Library does not require for the collections. The system also records the correspondence sent to the publisher notifying them that further issues are not required.

### Examining Production System

The Group began development of a system for the Examining Division to record assignment and completion of claims processed by staff within the Division. This interim system, which will be replaced by item level tracking when it is available, is scheduled for implementation by December 31, 2000. It will provide production statistics at the individual, team, section and division levels.

### Item Level Tracking

The Office-wide task group met monthly during the year and completed a final draft of the requirements for tracking materials as they are processed through the Office. The requirements will soon be finalized and CAG will collaborate with ITS to build the necessary processes into the new COINS system.

### Office Automation Software

LaserFiche was selected as the system to implement to support conversion of paper files to digital images through scanning and to character files through optical character recognition. Analysis was also begun on a companion system to manage the creation, processing and routing of internally prepared documents which can be combined with previously scanned files. Three products are presently being evaluated against the list of requirements.

Respectfully submitted to the Librarian of Congress by,  
**MARYBETH PETERS**  
Register of Copyrights and  
Associate Librarian of Congress  
for Copyright Services



A black and white photograph of a hand reaching for a book in a library. The hand is in the foreground, and the book is in the middle ground. The background is filled with rows of books on shelves, creating a sense of depth and a library atmosphere.

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## **Register's Testimony to Congress and Congressional Commissions**

- Testimony before the Subcommittee on Courts and Intellectual Property, Committee on the Judiciary, United States House of Representatives, on Copyright Office Operations, Accomplishments, and Challenges (05/25/00)
- Testimony before the Subcommittee on Courts and Intellectual Property, Committee on the Judiciary, United States House of Representatives, on the Issue of Sound Recordings as Works Made for Hire (05/25/00)
- Testimony before the Subcommittee on Courts and Intellectual Property, Committee on the Judiciary, United States House of Representatives, on Copyrighted Broadcast Programming on the Internet (06/15/00)
- Testimony before the Web-Based Education Commission, United States Senate, on Web-Based Education (07/20/00)
- Testimony before the Subcommittee on Courts and Intellectual Property, Committee on the Judiciary, United States House of Representatives, on State Sovereign Immunity and Protection of Intellectual Property (07/27/00)

*Full text of statements are available on Copyright Office website: [www.loc.gov/copyright](http://www.loc.gov/copyright)*

## **Federal Register Documents Issued**

- Notice and Recordkeeping for Non-subscription Digital Transmissions: Notice of Proposed Rulemaking, 64 FR 59140, November 2, 1999
- Copyright Office Amends “Best Edition” Regulation, 64 FR 62977, November 18, 1999
- Rulemaking on Exemptions from Prohibition on Circumvention of Technological Measures that Control Access to Copyrighted Works, 64 FR 66139, November 24, 1999
- Notice and Recordkeeping for Non-subscription Digital Transmissions: Interim Rule Amendment, 64 FR 66391, November 26, 1999
- Cost of Living Adjustment for Performance of Musical Compositions, 64 FR 67187, December 1, 1999

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- Satellite Carrier Statutory License; Definition of Unserved Household: Notice of Termination, 64 FR 71086, December 20, 1999
- Rate Adjustment of the Satellite Carrier Statutory License: Final Rule, 64 FR 71659, December 22, 1999
- Digital Performance Right in Sound Recordings and Ephemeral Recordings: Initiation of voluntary negotiation period, 65 FR 2194, January 13, 2000
- Copyright Arbitration Royalty Panels; List of Arbitrators: Publication of the 2000-2001 CARP arbitrator list, 65 FR 2439, January 14, 2000
- Copyright Rules and Regulations: Information Given by the Copyright Office: Notice of proposed rulemaking, 65 FR 3404, January 21, 2000
- Exemption to Prohibition on Circumvention of Copyright Protection Systems for Access Control Technologies: Extension of comment period; expansion of file formats, 65 FR 6573, February 10, 2000
- Cable Compulsory License; Definition of a Network Station: Notice of inquiry, 65 FR 6946, February 11, 2000
- Adjustment of Cable Statutory License Royalty Rates: Notice with a request for comments and announcement of negotiation period, 65 FR 10564, February 28, 2000
- Public Performance of Sound Recordings: Definition of a Service: Notice of proposed rulemaking, 65 FR 14227, March 16, 2000
- Exemption to Prohibition on Circumvention of Copyright Protection Systems for Access Control Technologies: Extension of deadline for reply comment period; notice of public hearings; and deadline for post-hearing comments, 65 FR 14505, March 17, 2000
- Public Performance of Sound Recordings: Definition of a Service: Request for comments, 65 FR 17840, April 5, 2000
- Distribution of 1995, 1996, 1997, and 1998 Digital Audio Recording Technology Royalties: Initiation of arbitration, 65 FR 19025, April 10, 2000
- Exemption to Prohibition on Circumvention of Copyright Protection Systems for Access Control Technologies: Change in hearing time, 65 FR 25894, May 4, 2000
- Registration of Claims to Copyright, Group Registration of Photographs: Proposed regulations with request for comments, 65 FR 26162, May 5, 2000

- Public Performance of Sound Recordings: Definition of a Service: Notice of inquiry, 65 FR 33266, May 23, 2000
- Report to Congress Pursuant to Section 104 of the Digital Millennium Copyright Act: Request for public comment, 65 FR 35673, June 5, 2000
- Distribution of 1995, 1996, 1997, and 1998 Digital Audio Recording Technology Royalties: Suspension of proceeding, 65 FR 37412, June 14, 2000
- Copyright Rules and Regulations: Copyright, Registration of Claims to Copyright: Final rule; technical amendments, 65 FR 39818, June 28, 2000
- Freedom of Information Act, Privacy Act, and Copyright Arbitration Royalty Panel: Policies and Procedures: Final rule; technical amendments, 65 FR 39819, June 28, 2000
- Registration of Claims to Copyright: Statement of policy, 65 FR 41508, July 5, 2000
- Public Performance of Sound Recordings; Definition of a Service: Extension of reply comment period, 65 FR 41612, July 6, 2000
- Distribution of 1995, 1996, 1997, and 1998 Digital Audio Recording Technology Royalties: Announcement of the schedule for the proceeding, 65 FR 41737, July 6, 2000
- Copyright Restoration of Works in Accordance With the Uruguay Round Agreements Act; Corrections pertaining to Notices of Intent To Enforce Restored Copyrights, 65 FR 46873, August 1, 2000
- General Provisions and Privacy Act; Technical Amendments, 65 FR 48913, August 10, 2000
- Cable royalty funds: Cable statutory license (1998); Phase I or Phase II controversy ascertainment; comment request, 65 FR 54077, September 6, 2000
- Adjustment of Cable Statutory License Royalty Rates: Notice of proposed rulemaking, 65 FR 54984, September 12, 2000
- Ascertainment of Controversy for the 1996-1998 Satellite Royalty Funds: Notice with request for comments and notices of intention to participate, 65 FR 56941, September 20, 2000

## APPENDICES

REGISTRATIONS, 1790-2000					
Year(s)	Total	Year	Total	Year	Total
1790-1869	150,000 <sup>1</sup>	1914	124,213	1959	241,735
1870	5,600	1915	116,276	1960	243,926
1871	12,688	1916	117,202	1961	247,014
1872	14,164	1917	112,561	1962	254,776
1873	15,352	1918	107,436	1963	264,845
1874	16,283	1919	113,771	1964	278,987
1875	16,194	1920	127,342	1965	293,617
1876	15,392	1921	136,765	1966	286,866
1877	16,082	1922	140,734	1967	294,406
1878	16,290	1923	151,087	1968	303,451
1879	18,528	1924	164,710	1969	301,258
1880	20,993	1925	167,863	1970	316,466
1881	21,256	1926	180,179	1971	329,696
1882	23,141	1927	186,856	1972	344,574
1883	25,892	1928	196,715	1973	353,648
1884	27,727	1929	164,666	1974	372,832
1885	28,748	1930	175,125	1975	401,274
1886	31,638	1931	167,107	1976	410,969 <sup>2</sup>
1887	35,467	1932	153,710	1976	108,762
1888	38,907	1933	139,361	1977	452,702
1889	41,297	1934	141,217	1978	331,942
1890	43,098	1935	144,439	1979	429,004
1891	49,197	1936	159,268	1980	464,743
1892	54,741	1937	156,930	1981	471,178
1893	58,957	1938	168,663	1982	468,149
1894	62,764	1939	175,450	1983	488,256
1895	67,578	1940	179,467	1984	502,628
1896	72,482	1941	180,647	1985	539,165
1897	75,035	1942	182,232	1986	560,212
1898	75,634	1943	160,789	1987	581,276
1899	81,416	1944	169,269	1988	565,801
1900	95,573	1945	178,848	1989	611,328
1901	93,299	1946	202,144	1990	643,602
1902	93,891	1947	230,215	1991	663,684
1903	99,122	1948	238,121	1992	606,253
1904	104,431	1949	201,190	1993	604,894
1905	114,747	1950	210,564	1994	530,332
1906	118,799	1951	200,354	1995	609,195
1907	124,814	1952	203,705	1996	550,422
1908	120,657	1953	218,506	1997	569,226
1909	121,141	1954	222,665	1998	558,645
1910	109,309	1955	224,732	1999	594,501
1911	115,955	1956	224,908	2000	515,612
1912	121,824	1957	225,807		
1913	120,413	1958	238,935	<b>Total</b>	<b>29,131,112</b>

<sup>1</sup> Estimated registrations made in the offices of the Clerks of the District Courts (source: pamphlet entitled "Records in the Copyright Office Deposited by the United States District Courts Covering the Period 1790-1870," by Martin A. Roberts, Chief Assistant Librarian, Library of Congress, 1939).

<sup>2</sup> Registrations made July 1, 1976, through September 30, 1976, reported separately owing to the statutory change making the fiscal years run from October 1 through September 30 instead of July 1 through June 30.



<b>NUMBER OF REGISTRATIONS BY SUBJECT MATTER, FISCAL 2000</b>			
<b>Category of Material</b>	<b>Published</b>	<b>Unpublished</b>	<b>Total</b>
Non-dramatic literary works:			
Monographs and computer-related works	122,827	46,966	169,793
Serials:			
Serials (non-group)	57,360	-	57,360
Group Daily Newspapers	2,382	-	2,382
Group Serials	9,448	-	9,448
<b>Total literary works</b>	<b>192,017</b>	<b>46,966</b>	<b>238,983</b>
Works of the performing arts, including musical works, dramatic works, choreography and pantomimes, and motion pictures and filmstrips	47,599	91,336	138,935
Works of the visual arts, including two-dimensional works of fine and graphic art, sculptural works, technical drawings and models, photographs, cartographic works, commercial prints and labels, and works of applied arts	56,218	29,621	85,839
Sound recordings	13,665	20,625	34,290
<b>Total Basic Registrations</b>	<b>309,499</b>	<b>188,548</b>	<b>498,047</b>
Renewals	16,807	-	16,807
Mask work registrations	758	-	758
<b>Grand total all registrations</b>	<b>327,064</b>	<b>188,548</b>	<b>515,612</b>
<b>Documents Recorded</b>			<b>18,894</b>

<b>FEES RECORDED, FISCAL 2000</b>	
	<b>Fees</b>
Applications for Registration	\$17,437,665
Fees for mask works	\$44,700
Renewals	\$874,214
<b>Total</b>	<b>\$18,356,579</b>
Fees for recordation of documents	\$1,378,695
Fees for certifications	\$196,152
Fees for searches	\$257,446
Fees for expedited services	\$1,427,275
Fees for other services	\$380,478
<b>Total</b>	<b>\$3,640,046</b>
<b>Grand Total</b>	<b>\$21,996,625</b>
<b>Fees Applied to the Appropriation, Fiscal 2000</b>	<b>\$21,947,301</b>

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<b>ESTIMATED VALUE OF MATERIALS TRANSFERRED, FISCAL 2000</b>					
	Registered works transferred to other departments of the Library	Non-registration works transferred to other departments of the Library	Total works transferred to other departments of the Library	Average unit price	Total value of works transferred to other departments of the Library
<b>Books<sup>1</sup></b>	<b>199,060</b>	<b>58,107</b>	<b>257,167</b>		<b>\$11,290,505</b>
Ink Print	185,602	20,872	206,474	\$53.22	\$10,988,546
Electronic Works (ProQuest)	12,861	36,137	48,998	\$3.60	\$176,393
Microfilm	597	1,098	1,695	\$74.08	\$125,566
<b>Serials<sup>2</sup></b>	<b>211,516</b>	<b>154,740</b>	<b>366,256</b>		<b>\$5,050,747</b>
Periodicals	192,480	127,000	319,480	\$24.25	\$4,648,434
Ink Print Newspapers	19,036	25,200	44,236	\$0.94	\$24,949
Microfilm Newspapers	2,554	2,540	5,094	\$74.08	\$377,364
<b>Computer-related works</b>	<b>6,768</b>	<b>2,320</b>	<b>9,088</b>		<b>\$2,145,555</b>
Software	2,368	64	2,432	\$24.58	\$59,779
CD-ROMs	1,354	2,032 (1,429 serials)	3,386	\$616.00	\$2,085,776
Printouts	3,046	224	3,270		indeterminate value
<b>Motion Pictures<sup>3</sup></b>	<b>11,451</b>	<b>326</b>	<b>11,777</b>		<b>\$10,529,473</b>
Videotapes	10,878	314	11,192	\$77.85	\$871,297
Feature Films	1,110	12	1,122	\$8,608.00	\$9,658,176
<b>Music</b>	<b>45,161</b>	<b>1,065</b>	<b>46,226</b>	\$31.34	<b>\$1,448,723</b>
<b>Dramatic Works, choreography, and pantomimes</b>	<b>22,528</b>		<b>22,528</b>	\$53.82	<b>\$1,212,457</b>
<b>Other works of the performing arts</b>	<b>226</b>		<b>226</b>	\$31.34	<b>\$7,083</b>
<b>Sound Recordings</b>	<b>29,566</b>	<b>1,192</b>	<b>30,758</b>	\$12.65	<b>\$389,089</b>
<b>Maps</b>	<b>4,801</b>	<b>42</b>	<b>4,843</b>	\$31.99	<b>\$154,928</b>
<b>Prints, pictures, and works of art</b>	<b>2,881</b>	<b>194</b>	<b>3,075</b>	\$25.85	<b>\$79,489</b>
<b>TOTAL</b>	<b>533,958</b>	<b>217,986</b>	<b>751,944</b>		<b>\$32,308,047</b>

<sup>1</sup> 60% of "BOOKS" are selected for the collections; 40% are used for the Library's exchange program.

<sup>2</sup> 60% of "SERIALS" are selected for the collections, except in the case of Microfilm Newspapers (100% of which are selected).

<sup>3</sup> Includes 537 copies selected by the Library under motion picture agreements.

<b>NON-FEE INFORMATION SERVICES TO PUBLIC, FISCAL 2000</b>	
<b>Information and Reference Division direct reference services*</b>	
In person	21,826
By correspondence	46,103
By telephone	216,380
<b>Total</b>	<b>284,309</b>
<b>Office of the General Counsel direct reference services</b>	
By correspondence	66
By telephone	1,000
<b>Total</b>	<b>1,066</b>
<b>Receiving and Processing Division services</b>	
By correspondence	86,915
By telephone	3,139
<b>Total</b>	<b>90,054</b>
<b>Licensing Division direct reference services</b>	
In person	463
By correspondence	3,114
By telephone	4,507
<b>Total</b>	<b>8,084</b>
<b>Grand total direct reference services</b>	<b>383,513</b>
*Includes the Public Information Office	

<b>FINANCIAL STATEMENT OF ROYALTY FEES FOR COMPULSORY LICENSES FOR SECONDARY TRANSMISSION BY CABLE SYSTEMS FOR CALENDAR YEAR 1999</b>	
Royalty fees deposited	\$112,013,059.12
Interest income	\$5,329,141.95
Gain on matured securities	\$428,492.73
Transfers in	\$2,737.83
<b>Total</b>	<b>\$117,773,431.63</b>
<b>Less:</b> Licensing operating costs	\$2,558,037.28
Refunds issued	\$943,749.78
Cost of investments	\$113,070,092.89
Cost of initial investments	\$829,341.46
CARP operating costs	\$102,756.93
Transfers out	\$225,609.70
<b>Total</b>	<b>\$117,729,588.04</b>
Balance as of September 30, 2000	\$43,843.59
<b>Plus:</b> Face amount of securities due	\$113,589,132.12
<b>Less:</b> Pending refunds	\$13,138.26
<b>Cable royalty fees for calendar year 1999 available for distribution by the Library of Congress</b>	<b>\$113,619,837.45</b>

**FINANCIAL STATEMENT OF ROYALTY FEES FOR STATUTORY OBLIGATIONS  
FOR DISTRIBUTION OF DIGITAL AUDIO RECORDING EQUIPMENT AND MEDIA  
FOR CALENDAR YEAR 1999**

Royalty fees deposited	\$3,421,202.96
Interest income	\$105,600.01
Gain on matured securities	\$45,496.29
<b>Total</b>	<b>\$3,572,299.26</b>
<b>Less:</b> Licensing operating costs	\$19,559.18
Refunds	\$3,652.54
Cost of investments	\$1,216,885.26
Cost of initial investments	\$55,016.78
CARP operating costs	\$34,950.69
Distribution of fees	\$2,242,230.81
Transfers out	—
<b>Total</b>	<b>\$3,572,295.26</b>
Balance as of September 30, 2000	\$4.00
<b>Plus:</b> Face amount of securities due	\$1,224,025.41
<b>Less:</b> Pending CARP arbitration costs	—
<b>Audio Home Recording Act royalty fees for calendar year 1999 available for distribution by the Library of Congress</b>	<b>\$1,224,029.41</b>

**FINANCIAL STATEMENT OF ROYALTY FEES FOR STATUTORY LICENSES FOR  
SECONDARY TRANSMISSION BY SATELLITE CARRIERS  
FOR CALENDAR YEAR 1999**

Royalty fees deposited	\$80,674,006.74
Interest income	\$4,848,046.73
Gain on matured securities	\$535,010.49
Transferred in	\$132,147.04
<b>Total</b>	<b>\$86,189,211.00</b>
<b>Less:</b> Licensing operating costs	\$40,767.93
Cost of investments	\$84,777,338.87
Cost of initial investments	\$1,164,597.82
CARP operating costs	\$206,228.12
<b>Total</b>	<b>\$86,188,932.74</b>
Balance as of September 30, 2000	\$278.26
<b>Plus:</b> Face amount of securities due	\$85,274,775.06
<b>Satellite carrier royalty fees for calendar year 1999 available for distribution by the Library of Congress</b>	<b>\$85,275,053.32</b>





**U.S. Copyright Office**

The Library of Congress  
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