

**Statement of
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**Before the
Subcommittee on Intellectual Property
Committee on the Judiciary
United States Senate
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Chairman Leahy, Ranking Member Tillis, and Members of the Subcommittee:

Thank you for the opportunity to appear before you today to update you on the recent accomplishments and current projects of the Copyright Office. In the nearly two years since I arrived at the Office, we have been busy on numerous fronts. We have launched the new copyright small claims tribunal, finished implementing regulations to administer the Orrin G. Hatch – Bob Goodlatte Music Modernization Act (MMA), produced a number of studies and letters responding to Congressional requests, and contributed to litigation and trade-related activities with executive branch colleagues. We have made significant progress on our information technology (IT) modernization initiative, with the public releases of new and improved systems for recordation and access to public records, and extensive development work on licensing and registration. We have also substantially improved processing times for both registration and recordation services.

Of course, all of this work is done to further the Constitutional mission of “promot[ing] the progress of science and useful arts.”¹ I would like to begin by acknowledging and thanking Chairman Leahy for his decades of advocacy toward that mission. Mr. Chairman, you have been a champion of copyright throughout your career, having sponsored or co-sponsored many bills that became law and changed the copyright landscape, ranging from the Digital Millennium Copyright Act in 1998, to the Music Modernization Act in 2018, to the CASE Act in 2020. Your role in shaping today’s U.S. copyright system, as well as your consistent support for the Copyright Office and its staff, is deeply appreciated.

¹ U.S. CONST. art. I, § 8, cl. 8.

A. Copyright Office Management

As this Subcommittee well knows, the Copyright Office is tasked with overseeing the national copyright registration and recordation systems, advising Congress on copyright policy and legislation, working with the Department of Justice and other federal agencies on copyright litigation, conducting administrative and regulatory activity (including with respect to statutory licenses), and educating the public about copyright.

None of this work would be possible without the dedicated and talented staff of the Copyright Office. As of August 22, 2022, the Office has 445 staff on board, including the new Copyright Claims Board. Among full-time career employees, the Office has a minority representation of 52.1 percent, and women comprise nearly 60 percent. Earlier this year, I filled three Associate and Assistant Register positions to round out my management team, and also created and filled the position of our first Chief Economist.

The Office has weathered the pandemic well, with continued operational effectiveness. We quickly transitioned 98 percent of staff to full or partial telework in March 2020, just weeks after the pandemic hit. Over the past two years, we have gradually returned onsite in accordance with the Library's plan for restoring on-site operations. The Office now has between 38 and 54 percent of staff in the office on any given day, supplemented by expanded telework schedules. And starting in December 2021, we have phased out the temporary timing adjustments we offered to the public pursuant to the 2020 Coronavirus Aid, Relief, and Economic Security Act (CARES Act).²

In January 2022, the Office published a new strategic plan for 2022–2026, *Fostering Creativity and Enriching Culture*.³ The plan sets out four overarching goals: Copyright for All, Continuous Development, Impartial Expertise, and Enhanced Use of Data. These goals, aligned closely with those of the Library of Congress, are intended to make the copyright system more accessible, understandable, and up to date. All of our activities described below are directed toward advancing these goals.

² U.S. Copyright Office, NewsNet 941, Copyright Office Ending CARES Act Timing Adjustments (Dec. 29, 2021), <https://www.copyright.gov/newsnet/2021/941.html>; U.S. Copyright Office, NewsNet 945, Copyright Office Extends Time for Section 710 Declarants to Submit Deposits (Feb. 3, 2022), <https://www.copyright.gov/newsnet/2022/945.html>.

³ U.S. COPYRIGHT OFFICE STRATEGIC PLAN 2022–2026: FOSTERING CREATIVE & ENRICHING CULTURE (Jan. 2022), <https://copyright.gov/reports/strategic-plan/USCO-strategic2022-2026.pdf>.

B. Law and Policy Activities

The Office has maintained our longstanding role of providing expert advice to Congress, as well as to the judicial and executive branch agencies, without any pandemic-related interruption.

1. Launching the Copyright Claims Board

This year the Office successfully launched the groundbreaking small claims tribunal called the Copyright Claims Board (CCB) within a tight statutory time frame. We commenced regulatory work to implement the CASE Act immediately after it was passed in December 2020. We started with an omnibus notice of inquiry on all CASE Act topics, published in early 2021. Over fifteen months, we published fifteen Federal Register notices and finalized the CCB's regulatory framework. We completed all hiring for the CCB, including the three Copyright Claims Officers,⁴ attorneys, and support staff. In addition, we have collaborated with other Library offices to put in place an electronic filing and case management system, virtual hearing facilities, office space, and other essentials.

Equally important, we have produced a wide array of public information about the CCB's operations. Early on, we developed a webpage providing facts, FAQs, and other materials.⁵ This past spring, we launched a new website, ccb.gov, which includes a user handbook and other detailed information about the tribunal, and links to additional resources such as legislative history and rulemaking activity. We began to receive opt-out notifications from libraries and archives, pursuant to the statute, even before the CCB launched. And the site links to the eCCB, the electronic filing and case management system through which to file claims.

I am happy to report that the CCB opened its doors on time on June 16, 2022.⁶ As of August 31, there were over 130 claims filed, including approximately 62 percent

⁴ See U.S. Copyright Office, NewsNet 906, Copyright Office Announces Appointments of Copyright Claims Board Officers (Jul. 20, 2021), <https://www.copyright.gov/newsnet/2021/906.html>.

⁵ See U.S. Copyright Office, Copyright Small Claims and the Copyright Claims Board, <https://copyright.gov/about/small-claims/>.

⁶ U.S. Copyright Office, NewsNet 969, Copyright Office Announces Claims Board Is Open for Filing, <https://www.copyright.gov/newsnet/2022/969.html>. On November 30, 2021, the Register notified Congress that she found good cause to extend the commencement of CCB operations past the initial statutory date of December 27, 2021, to allow the Office "to ensure that the regulatory framework, resources, and infrastructure needed to establish a well-functioning forum are fully tested and can operate smoothly." U.S. Copyright Office, Letter to the President of the Senate (Nov. 30, 2021), <https://copyright.gov/laws/hearings/CCB-Letter-to-Congress-Senate-11-30-2021.pdf>; U.S. Copyright Office, Letter to the Speaker of the House (Nov. 30, 2021), <https://copyright.gov/laws/hearings/CCB-Letter-to-Congress-House-11-30-2021.pdf>.

where claimants did not list an attorney. The CCB staff is reviewing these claims for compliance with regulatory requirements, so it is still too early to know how many respondents will choose to participate or opt out of the proceedings. Meanwhile, we are actively continuing our efforts to inform and educate the public regarding the CCB and its processes.

2. Responses to Congressional Requests

The Office has been busy advising Congress in response to its requests. Since the July 2019 testimony of then-Register Temple to this subcommittee, the Office has fielded well over a dozen requests from senators.⁷

Over the past year, we completed three major studies at the request of several senators. Most recently, on August 1, 2022, we provided our response to a proposal for a deferred registration examination procedure. Earlier this summer we issued a report assessing the advisability of providing additional protections for press publishers under copyright law, relating to online news aggregation services. In August 2021, we issued a study evaluating the evidence to support new federal legislation abrogating state sovereign immunity from copyright infringement claims. We also completed two studies required by statute: a June 2021 report on the market impact of terminating certain section 119 satellite licenses and a July 2021 study on best practices recommendations for the new Mechanical Licensing Collective (MLC) established by the Music Modernization Act (MMA).

The Office responded to Senate inquiries on several other policy issues as well. These responses include a December 2021 letter providing updates on our development of materials for the public on “do it yourself” (DIY) music licensing; an August 2021 letter assessing possible federal preemption of state legislation on licensing of eBooks to public libraries; a May 2020 letter on the copyright implications of the then-active “National Emergency Library”; a December 2019 letter on the noncommercial use exception in the MMA; and a July 2019 letter on felony penalties for illegal streaming. We also submitted a joint letter with the U.S. Patent and Trademark Office in January 2021 on public performance rights for sound recordings.

⁷ Office policy studies (including notices, public comments, roundtables, final report) are found on the policy page at <https://copyright.gov/policy/>. Office letters to Congress are found on the hearings pages, under ‘Statements to Congress and Copyright Office Written Testimony, 2013-Present’ at <https://copyright.gov/laws/hearings/>.

The Office is still in the midst of work in response to additional requests. We are currently concluding a public study on electronic deposit issues in sections 407 (mandatory deposit) and 408 (deposits for registration), including whether removing the “best edition” requirement could help improve the registration process. We are collaborating with the U.S. Patent and Trademark Office on a joint study on the intellectual property rights issues related to non-fungible tokens (NFTs), and expect to announce the public process for this study later this month. Finally, we are continuing work on a request that the Office convene a representative working group of relevant stakeholders “to achieve the identification and implementation of technical measures” to address piracy on the internet, and a related request to look into standard technical measures found in 17 U.S.C. § 512(i). With respect to the technical measures consultations, we held a public plenary in February, followed in June by six moderated consultations plus six “office hours” sessions involving some 40 participants. We are now reviewing the over 6,000 written comments along with the results of the consultations, and we plan to hold a closing public plenary session in early fall before finalizing our deliverable to Congress later this year. In a separate docket, the Office issued a notice of inquiry seeking comment on the interpretation of section 512(i) and the advisability of potential changes to the definition of “standard technical measures.” We received written public comments this spring, and are preparing a deliverable also to send to Congress later this year.

3. Copyright Data

In June 2022, the Office issued a report, *Women in the Copyright System: An Analysis of Women Authors in Copyright Registrations from 1978 to 2020*.⁸ Based on the work of our Kaminstein Scholar, Professor Joel Waldfogel, the report examines women’s authorship rate in the U.S. copyright registration system, with a comparison to their participation in the copyright-based creative industries. The data told a mixed story. Most notably, there was a substantial increase in the percent of copyright registrations granted to women authors, from 28 percent in 1978 to over 38 percent in 2020. Some categories, notably nondramatic literary works, had reached or are moving toward gender parity, while other categories with lower percentages demonstrated moderate but sustained growth in female authorship. However, the data also shows that on average women authors were 21.6 percent less prevalent among copyright registrations than among participants in associated copyright-related occupations. At the same time as the report, we released the reference data set of copyright registration

⁸ U.S. COPYRIGHT OFFICE, WOMEN IN THE COPYRIGHT SYSTEM: AN ANALYSIS OF WOMEN AUTHORS IN COPYRIGHT REGISTRATIONS FROM 1978 TO 2020 (Jun. 2022), <https://copyright.gov/policy/women-in-copyright-system/>.

records from 1978 to mid-2021. This report is a helpful contribution to ongoing domestic and international discussions on the gender gap in the use of intellectual property systems.

We will be taking forward work to address the gaps identified in the report and to identify other potentially underserved communities. To this end, our new Chief Economist will be identifying additional areas for study for both internal and external researchers.

4. The Music Modernization Act

As of January 2021, the Office had fully implemented all regulations to administer the 2018 Music Modernization Act (MMA),⁹ including the new blanket mechanical license as well as rules involving pre-1972 sound recordings. We have responded publicly to two inquiries (one from the House and one from the Senate) regarding certain MMA-related issues. The Office engages with the MLC and other music stakeholders, including digital music services and songwriters, to obtain feedback and updates on the MLC's operations and how the MMA is working. Additionally, we have left our *ex parte* communications process open to help facilitate discussion about discrete issues that may require further regulatory action in an open and transparent manner. The Office will continue to maintain a proper oversight role as directed by the statute and the legislative history, as well as to engage in education and outreach activities.

5. Rulemakings

As noted above, implementing the CASE Act involved extensive rulemaking activity in 2021 and 2022. In July, the Office also issued a rule liberalizing the deposit requirements for registering a single issue of a serial publication.¹⁰ Last October, we completed another major rulemaking, the Eighth Triennial Section 1201 rulemaking proceeding under the Digital Millennium Copyright Act (DMCA). This proceeding establishes temporary exemptions to the prohibition against circumvention of technological measures that control access to copyrighted works.¹¹ Using the same streamlined process as in the last section 1201 rulemaking, the Office recommended

⁹ Orrin G. Hatch–Bob Goodlatte Music Modernization Act, Pub. L. No. 115-264, 132 Stat. 3676 (2018).

¹⁰ The amended rule allows applicants whose serials are published in physical format, or in both electronic and physical formats, to submit a single deposit copy for registration. U.S. Copyright Office, Liberalizing the Deposit Requirements for Registering a Single Issue of a Serial Publication, 87 Fed. Reg. 43755 (Jul. 22, 2022) at <https://www.govinfo.gov/content/pkg/FR-2022-07-22/pdf/2022-15522.pdf>.

¹¹ The Copyright Office has a dedicated webpage on the DMCA that includes information on section 512, section 1201, and section 1202. See <https://www.copyright.gov/dmca/>. The webpage dedicated to the materials involved in the Eighth Triennial Rulemaking is posted at <https://www.copyright.gov/1201/2021/>.

renewing all seventeen exemptions adopted in the prior rulemaking. In addition, the Office also supported in whole or in part, and the Librarian adopted, fourteen new or expanded exemptions. We continue to believe that updating the permanent statutory exemptions to include several that have been repeatedly renewed would reduce burdens on the public and the impact on staff resources.

6. Litigation and Support for Other Agencies

The Office provides legal advice and assistance across the government regarding complex areas of copyright law and policy, including Supreme Court and appellate litigation. In the last two years, three copyright cases have reached the Supreme Court, and the Office works with the Department of Justice in preparing the U.S. government views presented.¹² We also continue interagency collaboration on international matters and trade with agencies such as the Office of the U.S. Trade Representative and the U.S. Patent and Trademark Office. Such activities include working with other countries on legal and public education matters, regional intellectual property activities, and multilateral discussions at the World Intellectual Property Organization (WIPO) and the World Trade Organization (WTO).

7. Additional Legislative Proposals

In addition to the Congressional requests noted above, the Copyright Office remains ready to advise and assist Congress with the implementation of any other updates it may wish to make to title 17.

Over the past several years, the Office has offered policy recommendations to Congress to consider on a number of topics, including updating the exceptions for libraries, archives, and museums in section 108;¹³ requiring radio stations to provide fair compensation to copyright owners and performers when their sound recordings are broadcast "over the air";¹⁴ changes to section 1201 or its rulemaking process;¹⁵ and a resale royalty right for visual artists.¹⁶

¹² Briefs of the U.S. government in copyright cases before the Supreme Court and other federal courts are posted at U.S. Copyright Office, Amicus Brief Archive, at <https://copyright.gov/rulings-filings/briefs/>.

¹³ See generally U.S. COPYRIGHT OFFICE, SECTION 108 OF TITLE 17 (2017), <https://copyright.gov/policy/section108/>.

¹⁴ See U.S. COPYRIGHT OFFICE, COPYRIGHT AND THE MUSIC MARKETPLACE 138–39 (2015); see also Joint Letter of the Register of Copyrights Shira Perlmutter and Director of the U.S. Patent and Trademark Office Andrei Iancu to the Chairs and Ranking Members of the Senate and House Judiciary Committees, (Jan. 19, 2021), <https://copyright.gov/laws/hearings/performance-rights-letter.pdf>.

¹⁵ See generally U.S. COPYRIGHT OFFICE, SECTION 1201 OF TITLE 17 (2017), <https://copyright.gov/policy/1201/>.

¹⁶ See generally U.S. COPYRIGHT OFFICE, RESALE ROYALTIES: AN UPDATED ANALYSIS (2013), <https://copyright.gov/docs/resaleroyalty/>.

We also recognize the importance of the issues of online accountability and enforcement that are currently under discussion in many forums. In addition to our work described above on voluntary solutions, we are ready to assist in the development of any appropriate and helpful statutory adjustments.

C. Operational Matters

The Office continues to effectively administer the national registration and recordation systems. In fiscal 2021, we registered 403,771 claims to copyright involving millions of works. In doing so, we have markedly improved overall processing times: the average for examining all copyright claims stands at 3.6 months in the first half of fiscal 2022. For fully electronic claims that do not require correspondence, the average processing time is down from an average of 1.6 months to just over one month.¹⁷ The pandemic temporarily impacted processing times for electronic applications that required the submission of physical deposits, as well as paper applications, but these are beginning to decrease (to an average of 10.8 months and 8.3 months, respectively). By the end of this fiscal year (September 30, 2022), with examiners back onsite on a regular basis, we expect the processing times for claims with physical deposits to come close to those that are fully electronic. Additionally, we have already been able to eliminate the backup of physical deposits caused by the pandemic.

With respect to recordation, in fiscal 2021 the Office recorded 11,625 documents containing titles of 961,291 works.¹⁸ The online recordation pilot, launched in April 2020, has significantly shortened processing times, with the average time from submission to generation of the public record now measured in weeks rather than months. On August 1, we opened the pilot to all members of the public,¹⁹ and we are closely monitoring its rollout. So far, after just a month, we are pleased to see a meaningful increase in the number of users. At the same time, we still have to process paper recordation requests, and the pandemic caused some delays that have resulted in longer processing times.²⁰

¹⁷ Registration processing times are posted on our website at <https://copyright.gov/registration/docs/processing-times-faqs.pdf>. For the October 1, 2021 – March 31, 2022 timeframe, 75 percent of all registration claims were eService claims (online claims and electronic deposits); about 23 percent were deposit ticket claims (online claims with separately mailed physical deposit materials); and about 2 percent were mail claims (paper claim forms and physical deposits).

¹⁸ There are three primary types of documents that may be submitted for recordation: transfers of copyright ownership, other documents pertaining to a copyright, and notices of termination. The pilot and newly released system is currently focused on only the first category (section 205 documents).

¹⁹ U.S. Copyright Office, NewsNet 955, Copyright Office Expands Recordation System Access to the Public (Aug. 1, 2022), <https://www.copyright.gov/newsnet/2022/975.html>.

²⁰ Recordation processing times are posted on our website at <https://copyright.gov/recordation/>. The Office of Copyright Records is currently processing March 2020 basic (section 205) recordation filings and June 2021 notices of termination. The average processing time for paper submissions in fiscal 2021 was approximately 15

On the licensing side, the Office continued our effective stewardship of over \$1.2 billion in statutory licensing revenues as of the end of fiscal 2021. For the fourth consecutive year, we received an unmodified or “clean” audit opinion of the statutory licensing fiduciary asset financial statements.²¹ In addition, on July 1, 2022, the Licensing Section moved to a single Electronic Funds Transfer (EFT) payment method for payment of current, past, and future royalty and filing fees.

Finally, we have almost finished consolidating copyright deposit materials and other stored records from several geographically dispersed storage facilities into a single, modern facility. The collaborative warehouse construction project between the Library, the Copyright Office, and the Architect of the Capitol was completed ahead of schedule, and we moved into our new facility in Landover, Maryland in November 2020. Since then, we have vacated two storage facilities and plan to complete the exit from the third and final site by early 2023. The full consolidation of copyright materials into one facility will allow the Office to provide faster location services, better tracking, and improved security for our substantial inventory of copyright deposits.

D. IT Modernization

The Office’s modernization initiative remains a top priority. We are nearing completion of the fourth year of the congressionally appropriated five-year funding (fiscal 2019-23) for modernization of our IT systems. We continue to work closely with the Library of Congress’s Office of the Chief Information Officer (OCIO) to provide the business information needed for the IT development work.²² The planned Enterprise Copyright System (ECS) currently includes work streams on recordation, public records, registration, and licensing.

Recordation: As noted above, the Office has recently opened to the public our new recordation system, enabling electronic recordation of documents under section 205 of title 17. Starting with voluntary pilot users in April 2020, we worked with the developers to refine and improve the system’s features. Work is underway to incorporate notices of termination, as well as to build on user feedback to make iterative improvements.

months, and that was an increase of 3.5 months from the average fiscal 2020 processing times. Regardless of the processing time, the effective date of recordation is the date the Copyright Office receives the complete submission in acceptable form.

²¹ U.S. Copyright Office, NewsNet 972, Library of Congress Publishes Results of an Independent Audit of the Fiscal Year 2021 Fiduciary Financial Statements (Jul. 5, 2022), <https://copyright.gov/newsnet/2022/972.html>.

²² As part of the Library’s IT centralization initiative, the Copyright Office transfers the bulk of its IT modernization funding it receives to OCIO through an intra-agency agreement, to enable OCIO to administer related development activities and contracts.

Public Records: In late 2020, the Office released a pilot for the new Copyright Public Records System (CPRS), which provides an improved interface and advanced search functionality. The goal is to replace the existing Copyright Office Online Public Catalog; we anticipate making the CPRS the main public portal later this year.

Registration: Registration is the largest and most complex component of ECS. A clickable prototype for the standard application (the one used by most claimants) was successfully released for internal office evaluation at the end of fiscal 2020 and for limited moderated public testing in February 2021; a second public prototype was released in spring 2021. IT development on both the external (public) and internal (staff) components of the new registration application continues. A reimaged standard application has undergone moderated user testing and is currently in development, and work is underway to design and test one of the group registration applications. Significant progress has also been made on the internal side of the system. We are working with OCIO to increase the resources devoted to the registration component, in order to ensure an appropriate pace for this important part of ECS.

Licensing: In 2021, the Office began the development of user experience design and initial automated workflows for licensing processes to replace the current outdated systems. We anticipate that the cost of licensing modernization can be accommodated within the licensing base budget. To minimize the costs for copyright owners, the development will focus on migrating the statement of account examination processes to ECS and migrating all royalty accounting processes onto the Legislative Branch Financial Management System to eliminate duplicate processes. The new licensing processes will move into continuous development in spring of 2024.

Historical Public Records: As part of the Office's commitment to the preservation of and access to our historical records, we have made considerable progress toward digitizing print and microfilm records and making them available online. This includes the card catalog, the Catalog of Copyright Entries (CCEs), and the record books. Digitization is the first step, to be followed by metadata capture to enhance searchability, with all records eventually available through the Copyright Public Records System (CPRS). The Office already has digitized and made available online our physical card catalog, which is available in the Virtual Card Catalog (VCC), as well as the CCEs.²³

²³ See <https://copyright.gov/vcc/>. The VCC Proof of Concept represents card records from 1870–1977, displayed in JPEG images, from the U.S. Copyright Card Catalog collection. The images are presented in a similar filing order as found in the physical card catalog. Initial work is underway to capture metadata on these cards.

As to the Office's record books, which contain well over 26 million pages of records between 1870 and 1977, considerable progress has been made this year to digitize them and make them publicly available. The first 500 books were published on the Library's website in February 2022,²⁴ and now over 3,600 are included in this online collection. Scanning is being done in reverse chronological order from 1977, with the scanned books being posted as they become available.

Copyright Public Modernization Committee: In 2021, the Library of Congress established the Copyright Public Modernization Committee (CPMC) to enhance communication with external stakeholders about the technology-related aspects of the Office's modernization initiative.²⁵ The CPMC's thirteen members include stakeholders from the publishing, music, and photography sectors; libraries and archives; and other fields.²⁶ Three public meetings of the CPMC have now taken place, as well as several informal briefings for CPMC members by staff from the Library's OCIO and the Copyright Office. Future meetings are planned at least twice a year through 2024.

E. Public Information and Outreach:

The Office engages in extensive outreach activities to provide clear and accurate information on copyright law. We regularly produce events to educate stakeholders and the general public, including events to reach music and songwriter communities with information about the MMA. In fiscal 2021, staff fielded some 252,000 public inquiries and produced almost two dozen virtual events. Our Public Information Office and our reading room re-opened in July 2021 and currently provide in-person services by appointment.

The Office continues to maintain our Fair Use Index, which contains summaries of more than 200 selected cases involving fair use.²⁷ In addition, decisions of the Copyright Office Review Board, which hears final administrative appeals of refusals of copyright registration, from April 2016 to present, are available online.²⁸

We also have expanded our promotional efforts to reach out to new audiences and to create a variety of easily accessible educational resources. These materials

²⁴ See U.S. Copyright, NewsNet 947, Copyright Office Launches Digitized Copyright Historical Record Books Collection (Feb. 7, 2022), <https://www.copyright.gov/newsnet/2022/947.html>. The scans are posted at <https://www.loc.gov/collections/copyright-historical-record-books-1870-to-1977/about-this-collection/>.

²⁵ Library of Congress, Announcement of Copyright Public Modernization Committee, 86 Fed. Reg. 8044 (Feb. 3, 2021), <https://www.govinfo.gov/content/pkg/FR-2021-02-03/pdf/2021-02194.pdf>.

²⁶ See U.S. Copyright Office, NewsNet 898, Library of Congress Announces Copyright Public Modernization Committee (Jun. 22, 2021), <https://www.copyright.gov/newsnet/2021/898.html>.

²⁷ U.S. Copyright Office, Fair Use Index, <https://www.copyright.gov/fair-use/>.

²⁸ U.S. Copyright Office, Review Board Opinions, <https://www.copyright.gov/rulings-filings/review-board/>.

provide plain language explanations of copyright law and specific information relating to the MMA and copyright issues for musicians. We have brought on board a diversity outreach specialist focused on reaching underserved communities.

F. Budget Issues

The Copyright Office performs all of this work on a relatively modest budget,²⁹ and appreciates the congressional support we have received in recent fiscal years. As a reminder, financial support for our modernization initiative, initially funded as part of the fiscal 2019 budget, continues through fiscal 2023. With respect to the fiscal 2021 budget, the Office and the Copyright Royalty Judges have used the program funding provided for staff hiring to support the heightened responsibilities imposed by the MMA. The Office requested and obtained \$3.2 million in additional fiscal 2022 funding for the CASE Act,³⁰ to supplement our unfunded fiscal 2021 work, including hiring the CCB staff.

We note with appreciation that the current appropriations bills in both the Senate and House reflect the fiscal 2023 budget request for the Copyright Office, as submitted by the Library of Congress.³¹ For fiscal 2023, the Office requests an overall budget of \$100.7 million in funding and 478 FTEs, of which \$46.9 million would be funded through offsetting fees collected in fiscal 2023 and prior years. The request for the Copyright Basic Budget alone is \$91.0 million and 445 FTEs, comprising \$39.7 million in offsetting fee collections (44%) and \$51.3 million (56%) in appropriated dollars.³²

²⁹ The Copyright Office's overall budget is composed of three separate budgets or program areas: (1) the Basic Budget, which funds most of the Office's operations and initiatives, including the majority of payroll-related expenses (historically, the Basic Budget has been composed of a combination of appropriated dollars and authority to spend fee revenue, with fees constituting approximately half of this funding); (2) the Licensing Division Budget, which is derived completely from collections of licensing royalties payable to copyright owners and filing fees paid by cable and satellite licensees pursuant to statutory licenses administered by the Office; and (3) the Copyright Royalty Judges (CRJ) Budget. Although the CRJs are not part of the Office, we provide them with budget formulation and execution support on behalf of the Library of Congress.

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

³¹ Library of Congress, FY2023 Budget Justification, 121 et seq., <https://www.loc.gov/static/portals/about/reports-and-budgets/documents/budgets/fy2023.pdf>.

³² The FY23 request includes mandatory pay-related and price level increases of \$1.635 million, and one program increase of \$1.7 million for Copyright Office Fee and Cost Analysis, Economic Analysis, and Statistics Capabilities. The program increase will expand the Office's capabilities for economic research, fee and cost analysis, and statistics; it will provide for new positions as well as software that will support skillsets that we currently do not have. Notably, this request is fully supported through an increase in offsetting collections authority and will not require an increase in appropriated dollars.

Given that work to modernize our IT systems and services is still underway, continued fiscal support will be needed when the Office turns toward maintaining the ECS as part of continuous IT development. We want to maintain and improve our IT on an ongoing basis and not repeat the experience of having to overhaul badly outdated legacy systems.

Also looking ahead, the Office is considering when to initiate our next fee study. The last study was initiated in June 2017, and the new fees went into force on March 20, 2020.³³ Fee studies have generally been done approximately every five years; they can take more than two years to complete as they often entail multiple public notices. With our Chief Economist now onboard, we will be starting internal research regarding the demand side of our fee collections. We plan to subsequently launch the usual public notice of inquiry on costs and fee-setting. As in the past, we anticipate that the fee study will involve a number of policy issues that will benefit from public input.

Finally, in recent years, the Office has highlighted that our operations would benefit significantly from greater flexibility in the use of collected fees, specifically the authority to use existing fee balances to provide continued services to the public in the event of a lapse in appropriations. This issue continues to be important to the Office, and we look forward to working with members to discuss paths forward.

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The Copyright Office appreciates the Subcommittee's and the Committee's continued support of our work to promote and improve the copyright system.

³³ See U.S. COPYRIGHT OFFICE, FEE STUDY (2018), <https://copyright.gov/rulemaking/feestudy2018/>.