



The Register of Copyrights of the United States of America
United States Copyright Office · 101 Independence Avenue SE · Washington, DC 20559-6000 · (202) 707-8350

March 18, 2015

Joel Willemsen
Managing Director, Information Technology
Government Accountability Office
4441 G Street, NW
Washington, DC 20548

Via email transmittal

Re: GAO Review 311613

Dear Mr. Willemsen:

Thank you for your draft report regarding information technology in the U.S. Copyright Office. My staff and I greatly appreciate the expertise and experience that the Government Accountability Office ("GAO") has brought to this project during the past few months, and we believe the report will be an important resource as we consider new IT investments and related management paradigms for the national copyright system.

As noted throughout the report, it is important to read GAO's findings alongside the IT review of the larger agency, entitled "Library of Congress: Strong Leadership Needed to Address Serious Information Technology Management Weaknesses." The Librarian of Congress has responded under separate cover to the Library draft report and deferred to me on the Copyright Office draft report. The response I am providing here is my own, written from my perspective as Register of Copyrights.

As we move further into the twenty-first century, it has become clear to everyone who comes in contact with the copyright law that the Copyright Office must evolve from a small department of public record to a digitally-savvy administrator of intellectual property rights, remedies, and commercial information. This requires us to evaluate the needs of the national copyright system objectively and transparently, with appropriate direction from Congress. I thank GAO for assisting us with this transition.

Further to this point, the United States Senate's Subcommittee on Legislative Branch Appropriations provided the following backdrop in making its request of GAO:

The Committee recognizes that the digital revolution has transformed the copyright marketplace and, as a result, the role of the Copyright Office in our economy. The Committee finds that [the] Copyright Office will also need to evolve and adapt to the challenges of these new realities. In fact, the Committee notes that public comments recently submitted by the copyright community indicate that the Copyright Office is currently in need of significant IT and related upgrades in order to be fully interoperable with the digital economy it serves.

In conducting its review, GAO acknowledged that although the Copyright Office is organizationally subordinate to the Library of Congress, it has a separate and important role in administering the Copyright Act. It further noted that the Office supports creative industries that significantly contribute to the U.S. economy. And it found that the existing IT environment presents many technical and organizational challenges that ultimately may affect the ability of the Copyright Office to meet its legal mission.

In conclusion, GAO crafted two recommendations relating to IT management and governance that would move the Office forward responsibly but incrementally within the Library's existing framework:

- The Librarian should direct the Register of Copyrights to develop investment proposals and other plans that align with the Library's strategic plan, and bring them to the Library's steering committee as required by Library policy; and
- The Librarian should direct the Register of Copyrights to develop an IT strategic plan that includes the Office's prioritized IT goals, measures, and timelines, and is aligned with the Library's ongoing strategic planning efforts.

However, GAO provided important caveats to its advice. For example, it found that:

- The Copyright Office is hindered by significant challenges related to the Library's deficiencies in IT governance; and
- The lack of a Library-wide IT plan has impeded the Copyright Office's IT strategic planning.

As a general matter, my staff and I very much appreciate GAO's expertise, and we value the review team's guidance regarding the criticality of documented planning and related cost assessments. But GAO was not charged with examining, and did not consider, the legal relationship of the Library and Copyright Office. Its recommendations therefore assume that the Copyright Office will continue to route its IT needs through central Library processes and managers, in line with other Library departments.

As Register, I must question whether this paradigm is the best way to meet the objectives of the copyright system, particularly because, by GAO's own estimation, the Library's IT management presents serious and far-reaching deficiencies—many of which have negatively impacted the Copyright Office's public services in recent years. In other words, we should consider whether a steering committee comprised of Library managers tasked with making Library-wide decisions and creating Library-wide synergies is the right solution for the kind of evolution expected by copyright stakeholders. Additionally, I think there is tension between putting decisions in the hands of central Library boards when, pursuant to the letter of the Copyright Act, the Copyright Office is singularly responsible for administering the copyright law. I therefore wonder whether GAO has any insight into how best to implement the standards of Clinger-Cohen, which favors

centralized and mission-related IT planning, within an agency like ours that has separate and competing missions.

In recent hearings, Members of Congress from the House Judiciary Committee, the House Subcommittee on Legislative Branch Appropriations, and the Senate Subcommittee on Legislative Branch Appropriations have all questioned the current governance structure, raising constitutional, budget, and IT governance questions. In light of these developments, it seems prudent that both the Library and the Copyright Office solicit further guidance from Congress before implementing GAO's recommendations.

In my view, this is critical because the Library is under pressure to build an IT enterprise that supports its extremely important work in acquisitions, preservation, and education. As it begins to improve and implement these requirements, we all need to consider whether and how the needs of the Copyright Office will fit within larger Library priorities. The overall goal is to ensure that both the Library and the Copyright Office are optimally positioned for the twenty-first century—the former as a preeminent cultural and bibliographic institution and the latter as a legal organization interacting with and supporting the demands of e-commerce in the global marketplace. This is especially relevant now, when the pressures of the digital world impact the Copyright Office and the Library in different and important ways.


On a related point, because GAO primarily reviewed management issues, it did not examine the Library's technology infrastructure, including: the existing cable plant; telecommunications; and data center power and cooling capabilities. These appear to be insufficient to support a twenty-first century Copyright Office. The gap between Copyright Office capabilities and the needs of the copyright marketplace calls for an overarching technical architecture and modern infrastructure that is dedicated to the national copyright system. This was the conclusion of a major analysis that I released last month, entitled "Report and Recommendations of the Technical Upgrades Special Project Team." It is not clear that we can make these leaps by embracing more tightly an approach that places decision-making authority and execution with central offices.

GAO also has suggested that the Copyright Office absorb more of the burden of preparing investment proposals, cost-benefit analyses, and strategic IT planning. These are responsibilities that we are eager to take on, and believe they would be more effective if performed in close coordination with our copyright experts. But we should be clear that the lion's share of this work has not been the domain of the Office as a department of the Library. Thus, this recommendation would require the Office to acquire its own range of specialists with expertise in information technology areas such as data standards, cloud services, project management, and enterprise architecture among others.

I happen to believe that building an expert staff like this is exactly the right step; it is impossible to see how we can otherwise progress. Moreover, in speaking with colleagues in the copyright industries and related technology companies, I have come to believe that at least a third of the Copyright Office's staff should be professionals who are trained in technology and data and who can respond to and plan for the corresponding needs of our content and technology customers. Whether this is the right staffing plan within the agency would appear to be a decision for Congress. We would welcome any further input GAO may have on this issue.

In closing, my staff and I would like to thank the review team for its work these past few months and for the thoughtful findings. I also wish to thank the Senate's appropriators for commissioning GAO to the benefit of the national copyright system. The report will be most helpful as we formulate future plans.

Sincerely yours,

A handwritten signature in black ink that reads "Maria A. Pallante". The signature is written in a cursive style with a large, sweeping initial "M".

Maria A. Pallante
U.S. Register of Copyrights