



March 9, 2021

The Honorable Nancy Pelosi
Speaker of the House of Representatives
United States House of Representatives
2138 Rayburn House Office Building
Washington, D.C. 20515

Dear Madam Speaker:

Pursuant to section 19011(a) of the Coronavirus Aid, Relief, and Economic Security (CARES) Act, I am writing to advise you that the U.S. Copyright Office has determined to extend the adjustments to certain timing provisions of the Copyright Act for persons affected by the COVID-19 pandemic. Section 19011(a), codified at section 710 of the Copyright Act, authorizes the Register of Copyrights to “toll, waive, adjust, or modify any timing provision . . . or procedural provision” in the Copyright Act if she determines that a national emergency declared by the President “generally disrupts or suspends the ordinary functioning of the copyright system . . . or any component thereof.” Under that authority, the Copyright Office has adjusted certain timing provisions from the date of the declaration of the COVID-19 national emergency by the President on March 13, 2020.

As required by section 710(c), on July 10, 2020, the Acting Register advised Congress that the Office would extend these adjustments for a cumulative total of longer than 120 days in light of the ongoing disruptions to the copyright system caused by the national emergency.¹ On November 9, 2020, I advised Congress that the Office would implement a further extension and would inform Congress if it found a continuing need for any of these modifications following an additional 120 days.² For the reasons discussed below, the Office has determined that the disruptions to the copyright system remain in effect, and therefore I am extending the timing adjustments for an additional sixty days, through May 10, 2021. The Office will consider whether there is a need for a further sixty-day extension at that time.

¹ Letter from Maria Strong, Acting Register of Copyrights & Dir., U.S. Copyright Office, to Nancy Pelosi, Speaker of the House of Representatives (July 10, 2020), <https://www.copyright.gov/laws/hearings/notification-to-house-regarding-extension-of-cares-act-adjustment.pdf>; Letter from Maria Strong, Acting Register of Copyrights & Dir., U.S. Copyright Office, to Michael R. Pence, President of the Senate (July 10, 2020), <https://www.copyright.gov/laws/hearings/notification-to-senate-regarding-extension-of-cares-act-adjustment.pdf>.

² Letter from Shira Perlmutter, Register of Copyrights & Dir., U.S. Copyright Office, to Nancy Pelosi, Speaker of the House of Representatives (Nov. 9, 2020), <https://copyright.gov/laws/hearings/CARES-Act-2d-Notification-to-Congress-Pelosi.pdf>; Letter from Shira Perlmutter, Register of Copyrights & Dir., U.S. Copyright Office, to Michael R. Pence, President of the Senate (Nov. 9, 2020), <https://copyright.gov/laws/hearings/CARES-Act-2d-Notification-to-Congress-Pence.pdf>.

The current timing adjustments relate to two aspects of the copyright laws for which the Copyright Office has become aware that parties are being prevented from meeting the relevant deadlines due to the pandemic. First, for registration applicants affected by the national emergency, the Office has tolled the three-month time period under section 412 within which a copyright owner must register his or her work following its first publication in order to be eligible for certain statutory remedies in an infringement action. Second, the Office has tolled certain statutory timing requirements for the service or recording of notices of termination, whereby authors may seek to recapture copyright interests that were transferred to others. For both of these adjustments, the Office has established specific eligibility criteria, including requiring parties to provide a declaration and satisfactory evidence that they would have met the statutory timing requirements but for the national emergency. Further details on these adjustments and their relevant background and rationale, as well as other actions taken by the Copyright Office relating to COVID-19, may be found at <https://www.copyright.gov/coronavirus/>.³

The Copyright Office has continued to closely monitor the effect of the national emergency on the functioning of the copyright system. Based on current guidance regarding the ongoing response to the pandemic, as well as information received from copyright stakeholders, the Office has determined that the disruptions described in our prior letters are continuing, and therefore these timing adjustments should remain in effect. On February 24, 2021, the President announced a continuation of the national emergency declared in March 2020.⁴ The Centers for Disease Control and Prevention continue to recommend that businesses permit employees to work from home where possible to promote social distancing,⁵ and the extent to which businesses have resumed operations continues to vary widely across the country. Thus, in many

³ In addition, the Office previously adopted two other timing adjustments that will not be extended further at this time. First, after being advised that certain entities were temporarily prevented from timely processing paper Notices of Intention and Statements of Account relating to the use of compulsory licenses for the making and distribution of phonorecords under 17 U.S.C. § 115, the Office tolled certain timing requirements for the service and delivery of such documents. In January 2021, the Office was advised that the national emergency is no longer affecting the timely processing of such materials, and therefore I determined that a further extension of these adjustments is not currently warranted. Second, the Office tolled, for up to 120 days (*i.e.*, until April 15, 2021), the determination of the Copyright Royalty Board in a rate determination proceeding relating to the statutory licenses for sound recordings. *See* Order Setting Virtual Hearing and Addressing Other Hearing-Related Matters, *In re Determination of Rates and Terms for Digital Performance of Sound Recordings and Making of Ephemeral Copies to Facilitate Performances (Web V)*, Docket No. 19–CRB–0005–WR (2021-2025) (CRB June 25, 2020).

⁴ Notice on the Continuation of the National Emergency Concerning the Coronavirus Disease 2019 (COVID-19) Pandemic (Feb. 24, 2021), THE WHITE HOUSE, <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/02/24/notice-on-the-continuation-of-the-national-emergency-concerning-the-coronavirus-disease-2019-covid-19-pandemic/>.

⁵ *See Guidance for Businesses and Employers Responding to Coronavirus Disease 2019 (COVID-19)*, <https://www.cdc.gov/coronavirus/2019-ncov/community/guidance-business-response.html> (last visited Mar. 8, 2021) (recommending implementation of telework when possible); *Prepare your Small Business and Employees for the Effects of COVID-19*, <https://www.cdc.gov/coronavirus/2019-ncov/community/guidance-small-business.html> (same) (last visited Mar. 8, 2021); *see also Guidance on Preparing Workplaces for COVID-19*, at 9, available at <https://www.osha.gov/Publications/OSHA3990.pdf> (suggesting telecommuting as a means of promoting social distancing) (last visited Mar. 8, 2021).

cases, offices where necessary files are stored may be inaccessible to copyright owners or licensees.

Data compiled by the Office, as well as notification by interested parties, indicates a continuing need for these extensions. To date, over one thousand applications for registration have included a declaration as referenced above. Moreover, because the timing adjustments permit affected parties to submit materials after the period of disruption is declared to have concluded, it is likely that the Office will receive a significant number of additional submissions at a later date. Thus, while the full effect of the modifications will not be known until the disruption has ended, the evidence indicates that a substantial number of copyright stakeholders are relying upon these timing adjustments.

As was the case with previous extensions, the Copyright Office intends to implement further extensions of these provisions in 60-day increments. In the event the Office finds a continuing need for any of these modifications following an additional 120 days, I will provide further notification to Congress, as required by section 19011(a). The Office also will continue to monitor the effect of the national emergency on other aspects of the copyright system and will consider additional appropriate modifications as circumstances warrant.

Thank you for your attention to these matters. If my staff and I may be of further assistance, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink that reads "Shira Perlmutter". The signature is written in a cursive, flowing style.

Shira Perlmutter
Register of Copyrights and
Director, United States Copyright Office