

# **ANNUAL REPORT OF THE LIBRARIAN OF CONGRESS**

For the Fiscal Year Ending September 30, 1999

LIBRARY OF CONGRESS  
Washington 2000



The office responded to 426,804 requests from the public for copyright information, including more than 10,000 electronic mail requests; processed 21,929 filings from cable operators, satellite carriers, and manufacturers and importers of digital audio recording devices and media; and processed claims to the various royalty pools. The office collected royalty fees totaling \$214,888,724 (almost 85 percent in the form of electronic funds transfers through the Automated Clearing House or a Fedwire transfer), and the Licensing Division distributed royalties in the amount of \$172,214,737.

The Copyright Office's Web site played an increasingly important role in disseminating information to the copyright community and the general public. The Web site's redesign in November enabled faster and easier information retrieval by users. Selected as one of the nation's top Web sites by *PCNovice/Smart Computing* magazine, the site had more than 5.6 million hits during the year, almost a threefold increase over the previous year.

The office entered fiscal 1999 with a solid readership for its electronic news service, *NewsNet*, which was launched in fiscal 1998. The office published forty-one issues throughout the year and increased its subscription list by 44 percent, to a total of 3,666 by the end of 1999.

Testing of the new Copyright Office In-Process System continued through the year. By year's end, all Copyright mission-critical systems had been modified and tested as needed to ensure their operation in the year 2000.

#### SECURITY

The office purchased a laser engraving system, the first of its kind in the Library, to mark incoming Library materials in compact disc, audiocassette, and videocassette formats. The laser burns an identification mark onto the hub of the CD (and onto the plastic case containing audiotape or VHS-format videotape) indicating Library of Congress ownership, point of acquisition, date of receipt, and bar-code number.

Beginning in March, the Certifications and Documents Section implemented the Deposit Tracking System for use when staff members requested items from remote storage. The public research area in the Records Maintenance Unit was reconfigured to close off all but one public entrance to the records storage area, which would tighten control and access to the records. A new alarm system was installed on the emergency exit door, and eight security cameras were installed in the public research room area.

The Collections Management Division expanded its tagging activities to include placing targets in all incoming softbound monographs. Piece Iden-

tification Number (PIN) bar codes were placed on all incoming monographs, including spiral-bound books.

#### LEGISLATION

The office provided expert assistance to Congress on important copyright-related issues, giving policy and technical advice as well as testifying on legislation. The office began implementing a number of new pieces of legislation, which had been signed into law in 1998.

*Copyright Term Extension Act.* On October 27, 1998, President Clinton signed into law the Sonny Bono Copyright Term Extension Act, extending for an additional twenty years the term of copyright protection in the United States (Public Law 105-298, 112 Stat. 2827 [1998]). This law extends the term of copyright for most works to the life of the author plus seventy years. It similarly extends for an additional twenty years the terms of anonymous and pseudonymous works, works made for hire, and works in their renewal terms.

This same legislation contained the Fairness in Music Licensing Act of 1998, which broadens existing exemptions to the public performance right in broadcast music (sec.110[5] of Title 17, *United States Code*) for qualifying establishments. This legislation is the subject of a complaint brought by the European communities and their member states who alleged that these provisions violate U.S. obligations under the World Trade Organization-Trade-Related Aspects of Intellectual Property Rights agreement.

*Digital Millennium Copyright Act.* The office responded to new congressional directives contained in the Digital Millennium Copyright Act (DMCA) of 1998 (Public Law 105-304), signed into law by President Clinton on October 28, 1998. This legislation, the most far-reaching copyright bill in two decades, gave the office new duties and responsibilities in the areas of protection for vessel hull design, for liability limitations concerning infringement of copyright in a digital environment, and for digital performance rights of sound recordings. The DMCA also confirms and clarifies the historic and vital role of the Copyright Office by affirming in statutory language the long-standing role of the office in copyright policy and international matters.

Among the many provisions of the DMCA are two new chapters of Title 17, *United States Code*. Chapter 12 deals with issues related to technical measures used by copyright owners to protect their works. Chapter 13 creates a new form of protection that is for the design of vessel hulls and that is administered by

the Copyright Office. It includes a registration and cancellation process. On July 29, 1999, the office held a ceremony to commemorate the first vessel hull registration. The design, a Ranger Comanche 522VX, was submitted by the Wood Manufacturing Company of Arkansas, and the president of Wood Manufacturing accepted the certificate.

Title II of the DMCA limits certain online infringement liability for Internet service providers. Internet service providers must designate agents whom copyright owners may notify if the owners believe their work is being infringed. The name and address of the agent must be filed with the Copyright Office and also posted on the service provider's Web site. The Copyright Office maintains a list of the filings, which is accessible through the Copyright Office home page on the Internet. At year's end, approximately fifteen hundred agents had been designated.

The DMCA required the Copyright Office to prepare a report for Congress on the promotion of distance education through digital technologies, including interactive digital networks. On December 23, 1998, the office requested comments from all interested parties. A series of three public hearings was held in Washington, D.C. (January 26–27, 1999); Los Angeles, California (February 10, 1999); and Chicago, Illinois (February 12, 1999). The Copyright Office released its report on "Copyright and Digital Distance Education" at a Senate hearing on May 25, 1999. On June 24, 1999, the House Subcommittee on Courts and Intellectual Property held its hearing on the report.

In addition, the DMCA requires the Copyright Office and the National Telecommunications and Information Administration (NTIA) of the Department of Commerce to prepare a report for Congress on the effects on encryption research under Section 1201(g) of Title 17. Section 1201 establishes a prohibition on the act of circumventing technological measures that effectively control access to a copyrighted work. The office and NTIA solicited and received public comments.

*New Fee Schedule.* Public Law 105–80 (the Technical Amendments Act of 1997) authorized the Register of Copyrights to conduct a study of the costs incurred by the office for its services. Upon completion of the cost study, the Copyright Register met with authors, copyright owners, and officials of the Library to seek their initial reactions and to listen to concerns. Then the office published a notice of proposed fee increases that contained two alternative preliminary fee schedules and that requested written comments. It also offered the public the opportunity to testify at a public hearing on October 1, 1998. Literary authors, journalists, graphic artists, illustrators, and photographers testified

at the hearing about the consequences they would suffer if fees were set at either of the proposed levels. Written comments from beneficiaries and users of the office's services urged the office to reduce the proposed increases.

After analysis of all pertinent data, the Copyright Office concluded that the full recovery of costs incurred in the initial registration of a work would be detrimental to authors, copyright owners, and the Library. The office revised its recommendation for initial registration and proposed a thirty dollar registration fee. For other statutory services, the fee remained as originally proposed. These fees, which do not have the same impact on the copyright system, were set at amounts that will cover costs, as originally planned. It is estimated that 70 percent of operating costs could be recovered under the new fee schedule.

The proposed fee schedule, plus the accompanying analysis, was forwarded to Congress on February 1, 1999, for review. Congress had 120 days in which to enact a law to disallow the fee increase. Congress did not enact such a law by June 1, the termination of the 120-day period; thus the office raised fees on July 1, 1999.

Changes in the fees necessitated a campaign to inform the public of the impending changes. All informational circulars and copyright application forms—in both print format and electronic format on the office's Web site—were revised to include fee change notices. The information provided by the automated telephone answering system was updated to alert the public to the fee changes. The changes were sent out electronically to subscribers of the electronic publication *NewsNet*. Newspaper and radio announcements on the fee changes were released through a national placement service. Signs announcing the fee changes were posted in all the public areas of the Copyright Office.

#### COMPULSORY LICENSING

The Copyright Office administered a number of compulsory licenses, including those for retransmission of broadcast signal by cable systems and satellite carriers. On October 29, 1998, the office distributed 75 percent of the 1996 cable television royalties totaling \$141,576,454. A partial distribution of \$4,042,569 was made from the 1992–1995 satellite carrier royalties on January 8, 1999, following a settlement of 15.5 percent of the aggregate in those funds, less an amount withheld to cover the cost of a Copyright Arbitration Royalty Panel (CARP) and amounts in a Phase II controversy within the Music Claimant category. Another partial distribution totaling \$25,004,514 of those funds was made on June 10, 1999, to all claimant groups except for Program Suppliers

and Joint Sports for 15.5 percent of the aggregate of the funds, less funds withheld for a Phase II controversy within the Music Claimant category. A final distribution of \$619,160 was made to Music Claimants on September 16, 1999, upon settlement of Phase II controversies. A partial distribution of \$49,053 of the 1992–1994 Digital Audio Recording Technology (DART) royalty funds was made on April 30, 1999, as a result of a settlement agreement in the Sound Recording fund.

Since 1993, when Congress created a system of ad hoc CARPs, the office has been charged with reviewing panel decisions and recommending to the Librarian whether they should be accepted or rejected. During fiscal 1999, the office revised financial statements in order to earmark funds for payment of arbitrators when a CARP is needed to settle royalty fee distribution controversies. For the first time, budget authority was provided to the Library for direct payment of arbitrators in a CARP proceeding.

COPYRIGHT OFFICE ELECTRONIC REGISTRATION,  
RECORDATION, AND DEPOSIT SYSTEM (CORDS)

The office made significant progress on a major initiative to develop an electronic registration and deposit system known as CORDS. During the year, 9,941 claims in electronic form were received from CORDS test partners, and 7,883 were fully processed electronically through the CORDS system.

The major emphasis of CORDS testing and implementation during 1999 focused on successfully establishing system-to-system communications for CORDS electronic copyright registration and on depositing information with the office's largest copyright remitter, Bell and Howell Information and Learning (previously known as UMI). Electronic receipt and processing of claims for dissertations in digital form will be handled by the Copyright Office. This accomplishment was a significant CORDS milestone in fully automated processing among eight computer systems that communicate with computers both inside and outside the Library. With the signing of a CORDS Cooperative Agreement among the Copyright Office, the Library, and the principals at Bell and Howell Information and Learning, the successful technical implementation commenced on April 10. Another technical achievement this year was the development of a new CORDS interface to transfer information between CORDS and the Copyright Imaging System for automatic production of copyright registration certificates.

INTERNATIONAL ACTIVITIES

The office continued to participate in many international activities, including the meeting of the Governing Bodies of the World Intellectual Property Organization (WIPO) and WIPO's Standing Committee on Copyright. Discussion in the standing committee focused both on a new treaty for performers of audiovisual works (screen actors) and on potential new treaties for broadcasters and for producers of databases. In addition, the office assisted the U.S. Trade Representative in its many bilateral and multilateral activities.

The office continued its program of international development cooperation through its International Copyright Institute. That institute and WIPO's Worldwide Academy jointly hosted a "Worldwide Seminar on Copyright and Related Rights" in Washington, D.C., for participants from fifteen countries during the week of March 17-24. The seminar focused on the new WIPO Copyright Treaty, on the WIPO Performances and Phonograms Treaty, and on the impact of new technology on the protection and enforcement of copyrights.

The office participated in WIPO seminars in Kazakhstan, Kyrgyzstan, and Namibia and in USAID and Department of Commerce programs in Kyrgyzstan and Egypt. The office was also represented at the meeting of the Global Business Dialogue in Paris.

Table 11. Number of Copyright Registrations by Subject Matter, Fiscal 1999

<i>Category of Material</i>	<i>Published</i>	<i>Unpublished</i>	<i>Total</i>
Nondramatic Literary Works:			
Monographs and Computer-Related Works	151,830	55,716	207,546
Serials:			
Serials (nongroup)	64,289	—	64,289
Group Daily Newspapers	2,193	—	2,193
Group Serials	9,159	—	9,159
Total, Literary Works	227,471	55,716	283,187
Works of the Performing Arts, Including Musical Works, Dramatic Works, Choreography and Pantomimes, and Motion Pictures and Filmstrips	51,134	104,091	155,225
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	62,779	30,838	93,617
Sound Recordings	14,994	23,082	38,076
Total	356,378	213,727	570,105
Renewals	23,896	—	23,896
Mask Work Registrations	500	—	500
Grand Total, All Registrations	380,774	213,727	594,501
Documents Recorded			16,447

Table 12. Copyright Business Summary, Fees Recorded, Fiscal 1999

<i>Receipts</i>	<i>Fees</i>
Applications for Registration	\$13,154,923
Fees for Mask Works	49,050
Renewals	576,782
Total	13,780,755
Fees for Recordation of Documents	\$832,839
Fees for Certifications	110,680
Fees for Searches	179,766
Fees for Expedited Services	1,401,507
Fees for Other Services	299,859
Total	2,824,651
Grand Total	16,605,406
Fees Applied to the Appropriation, Fiscal 1999	\$16,716,295.91