

**Statement of Karyn Temple
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Before the
Subcommittee on Legislative Branch Appropriations
United States House of Representatives
Fiscal 2019 Budget Request**

Chairman Yoder, Ranking Member Ryan, and Members of the Subcommittee:

Thank you for the opportunity to submit the United States Copyright Office's fiscal 2019 budget request.

The nation's copyright system provides exceptional benefits to all who use it, from those who work in copyright industries to those who seek to use copyrighted materials to the public at large. It incentivizes the development of our creative culture and facilitates the important exchange of information among researchers and potential users of copyrighted materials. The importance of copyright is highlighted by the fact that, in 2015, copyright industries employed more than 5.5 million workers and contributed over 6 percent of the total U.S. GDP.¹

The Copyright Office has an essential role in this ecosystem. The Office administers the copyright law and, in fiscal year 2017 alone, registered 452,000 claims to copyright, examined 5,984 statutory licensing filings, and recorded nearly 15,000 ownership-related documents—generating a total of more than \$39 million in fees for its services. The Office administered over a billion dollars in royalties for statutory licenses to use certain copyrighted works. The Office also manages the mandatory deposit provision of the Copyright Act that provides the Library of Congress with a myriad of published works for its collections, which in fiscal 2017 included 658,045 published works worth over \$40 million.

To assist its work and provide a foundation for modernization, the Copyright Office in fiscal 2017 undertook substantial successful measures to streamline and update its practices. The Office issued nine final rules and worked on an additional eight proposed rules that increased the effectiveness of the copyright system. For example, the Office published final rules regarding group registrations of newspapers and photographs to provide a more efficient electronic submission mechanism to file for copyright registrations, and a final rule for refining the deposit requirements for certain types of literary works and musical compositions. To further simplify and automate its processes, the Office issued new rules to allow electronic signatures on electronically filed statements of account, for the removal of personally identifiable information from registration records, and an interim rule with improvements in the process of recording of transfers of copyright ownership, which can facilitate the licensing marketplace.

The Copyright Office also performs critical legal and policy functions for the United States. In fiscal year 2017, the Office assisted Congress with numerous copyright-related policy issues, including by releasing legal and policy reports on a wide array of issues such as section 1201 limits on circumvention of technological protection measures, software-enabled consumer products, exceptions for libraries and archives, and mass digitization. The Office also provided expert copyright advice to Congress during its continuing review of the nation's copyright law on a number of key copyright issues. Further, in fiscal year 2017, Office lawyers conducted extensive copyright legal analysis and worked with the executive

¹ INTERNATIONAL INTELLECTUAL PROPERTY ALLIANCE, COPYRIGHT INDUSTRIES IN THE U.S. ECONOMY: THE 2016 REPORT, at <https://iipa.org/files/uploads/2018/01/2016CpyrtRptFull-1.pdf>; *see also* U.S. PATENT AND TRADEMARK OFFICE AND THE ECONOMICS AND STATISTICS ADMINISTRATION, INTELLECTUAL PROPERTY AND THE U.S. ECONOMY: 2016 UPDATE (2016), at <https://www.uspto.gov/sites/default/files/documents/IPandtheUSEconomySept2016.pdf> (noting that copyright-intensive industries provided 5.6 million jobs in 2014 numbers).

branch and the courts on a number of high-profile litigation matters, including one case before the U.S. Supreme Court. On the international front, the Office participated on international delegations working on copyright treaty provisions and in intergovernmental groups assessing the impact of foreign copyright systems.

Moreover, the Copyright Office has continued its critical mission of assisting the public with understanding and navigating copyright issues. In fiscal 2017, the Office answered almost 194,000 phone, email, and mail inquiries, retrieved and copied thousands of copyright deposit records for parties involved in litigation, and assisted nearly 2,000 in-person visitors. The Office also proactively worked to distribute forty-eight issues of NewsNet, an electronic news service covering legislative and regulatory developments and general Office news, to more than 28,000 subscribers.

To conduct all of this work effectively and efficiently, the Copyright Office needs the foundation of a modern information technology system. Developing and deploying modernized systems that facilitate and enhance the Office's work and provide a positive experience for the public is therefore one of the Office's highest priorities. To that end, in September 2017, the Office and the Library of Congress's Office of the Chief Information Officer (OCIO) jointly submitted to the House and Senate Committees on Appropriations a revised Copyright Office IT modernization plan that focused on leveraging resources within the Library to take full advantage of possible economies of scale. That revised plan, *Modified USCO Provisional IT Modernization Plan: Analysis of Shared Services, Support Requirements, and Modernization Efforts*² ("Modified IT Plan"), supplements the Office's 2016 *Provisional Information Technology Modernization Plan and Cost Analysis*,³ and draws on the collaborative work of the Office and the OCIO to identify possible synergies that might exist now or in the future, as both the Office and the Library engage in dual modernization efforts.

Through all of its work, the Copyright Office sits in the middle of the complex and incredibly important national copyright system, and continues to provide Congress, the executive branch, the courts, and the public with expert copyright staff who work hard to administer the copyright law.

FUNDING AND OVERALL FISCAL YEAR 2019 BUDGET REQUEST

The Copyright Office requests a budget for fiscal year 2019 that will enable the Office to fulfill crucial copyright modernization goals in the Modified IT Plan, and to provide for supplemental staffing necessary to achieve greater efficiencies in registration, public records, public information services, and legal review. As the Office positions itself for the future, the requested funds will support the changes necessary to provide world-class service to a wide variety of constituencies—from the copyright community to government entities to the public at large.

The Copyright Office's overall budget is composed of three separate budgets or program areas: (1) *Basic Budget*, which funds most of the Office's core operations, including the majority of payroll-related expenses. Historically the basic budget has been provided through a combination of appropriated dollars and authority to spend fee revenue, with fees constituting a majority of this funding (generally in the range of 58% to 67%); (2) *Licensing Budget*, which is derived completely from licensing royalty collections otherwise payable to copyright owners and filing fees paid by cable and satellite licensees

² U.S. COPYRIGHT OFFICE, MODIFIED USCO PROVISIONAL IT MODERNIZATION PLAN: ANALYSIS OF SHARED SERVICE, SUPPORT REQUIREMENTS, AND MODERNIZATION EFFORTS (2017), <https://www.copyright.gov/reports/itplan/modified-modernization-plan.pdf> ("Modified IT Plan").

³ U.S. COPYRIGHT OFFICE, PROVISIONAL INFORMATION TECHNOLOGY MODERNIZATION PLAN AND COST ANALYSIS (2016), <https://www.copyright.gov/reports/itplan/technology-report.pdf> ("Provisional IT Plan").

pursuant to statutory licenses administered by the Office; and (3) *Copyright Royalty Judges Budget*, which funds the Copyright Royalty Board (“CRB”)—although the CRB is not a part of the Office, the Office administers its budget on behalf of the Library of Congress.

For fiscal year 2019, the Copyright Office requests a combined total of \$93.4 million in funding and 483 FTEs, of which \$49.8 million would be funded through authority to expend fees collected in fiscal year 2019 and in prior years.

The Office’s fiscal year 2019 requests are:

- *Basic Budget*: \$85.8 million and 454 FTEs. \$21.6 million and 23 FTEs of this request are for new initiatives, including funding Copyright Office modernization activities aligned with the joint Modified IT Plan, and staffing to address ongoing operations described further below. As in past years, the Office asks that Congress provide budget authority through a combination of annual appropriations and authority to offset fee revenue. The Office requests that \$39.2 million be provided through authority to expend fiscal year 2019 fee revenue and that \$4.3 million come through use of unobligated revenue balances of prior years. The Office requests that the remaining \$42.3 million come from appropriated dollars.

Initiatives to be funded through this request include:

- \$12.1 million (8 FTE) for Office modernization activities, which in fiscal year 2019 will primarily encompass development work for the next-generation registration system and final development and deployment of the automated recordation system. In addition to technical development efforts, this initiative includes eight positions needed to ensure effective project oversight through the Copyright Modernization Office (“CMO”), which is partnered with the Library’s OCIO.

The recommended mix of funding for this initiative includes \$4 million in increased offsetting collections authority, \$2 million in prior-year unobligated balances, and \$6.1 million in new appropriations.

- \$5 million for the Office’s Searchable Historic Records project. This request will focus on completion of the digitization of the public records and development of the Office’s virtual reading room. Pending an industry analysis currently underway to identify the best approach, the project will transition to indexing records to develop public search capabilities for all records via a web interface.
 - \$2.1 million (15 FTE) for additional examination positions to reduce pendency times for copyright registration.
 - \$1.3 million to provide for the long-term storage of the Office’s physical copyright deposits, a significant number of which must be secured by the Office for the life of the underlying copyright.
 - \$1.1 million for contract support to reduce the backlog of recordation requests and to prepare for transition to an automated recordation system.
- *Licensing Division Budget*: \$5.8 million, all of which is funded via fees and royalties. The requested increase includes mandatory pay-related and price level increases of \$.75 million.

- *Copyright Royalty Judges Budget:* \$1.8 million in total, with \$.15 million to support mandatory pay-related and price level increases. \$.5 million (for non-personnel-related expenses) of the total request is offset by royalties. The remainder, \$1.3 million in appropriated dollars, is to cover the personnel-related expenses of the judges and their staff.

FOCUS OF FUNDING REQUEST

The Copyright Office's funding request focuses on three key areas: (1) increased funding for IT modernization efforts, including the historical records initiative; (2) staffing for the Office's core registration services, and (3) contract support to support the Office's recordation program as well as for inventory activities to prepare for the Office's long-term need to secure physical copyright deposits.

Copyright IT Modernization

Modernization of the Copyright Office's aging information technology systems and applications is the Office's first priority. In partnership with the Office, the Library's OCIO developed detailed cost projections and timelines for full IT modernization that align with the revised provisional IT modernization plan and are reflected in the Office's modernization funding request. In addition to partnering on the modernization planning, the OCIO is taking full responsibility for the technical IT responsibilities for the Office, as the Library consolidated all Office information technology positions within the OCIO in December 2017. With all technical IT support now residing within the OCIO, both the Office and the OCIO support a new approach to maintaining the Office's oversight of its mission-critical systems. In accordance with the revised plan, in January 2018 the Copyright established the CMO, which complements the OCIO's technical support by providing the business direction necessary to ensure modernization projects are continuously aligned with the Office's mission and strategic goals. In keeping with the plan's dual-governance approach, the Acting Register of Copyrights and the Library's Chief Information Officer jointly chair a newly-formed Copyright Office Modernization Governance Board, which provides the executive direction critical to meeting the offices' long-term modernization goals.

Projects already underway under the supervision of the CMO and the Governance Board include the Copyright Office's new automated recordation system, which is entering into final development stages in anticipation of a calendar year 2019 release, and which completely overhauls the current manual recordation of documents. The Office and the OCIO have also begun early-stage work on the Office's next-generation enterprise registration system through a contract that provides for design of the user interfaces that unify how end users experience the Office's applications. Also noteworthy is the January 2018 release of the Office's "proof of concept" Virtual Card Catalog, which provides preliminary and accelerated public access to historical copyright records in advance of full digitization of all Office records while seeking public input on options for further access. Furthering the goal of data accessibility, both for public benefit and for operational insight, the Office also is developing a data management model that ultimately will provide for a federated search technology to allow users to search across registration, recordation, and licensing databases, and that will establish chain-of-title sequencing that can link registrations to recordations or other documents.

Using the development and deployment timeline developed by the Library's OCIO, Copyright Office IT modernization activities planned for fiscal years 2019 through 2024 include development and unification of public interfaces and all Office workflows through an enterprise solution. This enterprise solution will consist of modular applications including the next-generation registration system, the recordation system, the public interfaces, back-end processes, and future incorporation of statutory license processing.

The first phases will focus on registration processing, using data collected from the user interface project already underway, with development work next incorporating back-end requirements. Development will be complex, as the final system must integrate processes for complicated copyright examination procedures, copyright deposit management, fee payments, and other workflows. Given the scope of the system, development for the next-generation registration system is expected to span five years. Since the next-generation copyright registration system will be developed using agile methods, certain functionality will be available to Copyright Office staff and to the public even before all development activities are completed. As resources allow, development work for other processes will proceed in order of priority and in keeping with the overall timeline and planning documentation.

In support of ongoing and planned modernization projects, the Copyright Office is thus requesting \$12.1 million, comprised of a mix of fees, prior-year unobligated balances, and new appropriations, as referenced above. The request is proposed as recurring over five years, at a total of \$60.6 million. In fiscal year 2024, the Office would request that all but \$5.4 million non-recur, with the remaining funding providing for ongoing maintenance and operations costs of the deployed enterprise solution.

Searchable Historical Records

Recognizing its responsibility for the maintenance of the world's largest catalog of records of copyright, the Copyright Office continues to prioritize its efforts in securing the Office's historical records through digitization and in making those records accessible in an online and easily searchable format. For fiscal year 2019, the Copyright Office is requesting \$5 million, inclusive of \$1 million in prior-year unobligated balances, to recur over seven years for the searchable historical records project. The requested funding will allow the Office to take advantage of technological advances in digitization to complete the data capture and digitization of all remaining historical records, as well as the development and launch of a new, modernized Public Records Catalog IT system.

Copyright Office Staffing

To fully modernize, the Copyright Office must focus on its systems as well as the valuable personnel resources necessary to provide quality services to the public at large, copyright owners, technology companies, and the Library itself. Through its employees, the Office provides expert guidance to the public, Congress, other federal agencies, and the courts in copyright law analysis, examination of claims, and document recordation. The Office conducts outreach and education and provides customer service to the thousands who annually seek information in person, on the phone, and through email.

In the fiscal year 2019 request, the Copyright Office seeks to add much-needed registration specialists. The Copyright Office continues to experience an overall upward trend in copyright registration requests, with the number of workable claims increasing steadily since early fiscal 2012. It is an Office priority to provide reasonable registration review processing times, and the Office continues to focus all available resources on addressing the many factors that have caused increasing processing times. As modernized systems and processes have proven critical to improving productivity, the Office must also maintain adequate numbers of employees trained in complex copyright claims examination. The fiscal year 2019 request augments the fiscal year 2018 request for additional examination staff, allowing the Office to efficiently onboard and train multiple teams of examiners.

For fiscal year 2019, the Copyright Office also is requesting temporary funding increases for contract support to accelerate the reduction of its recordation workload and assist in the transition to a new, automated recordation system. The Office's request for temporary contract support also will provide for much-needed inventory software as well as a comprehensive inventory of the copyright deposits and other

materials stored by the Office so that the Office can accurately assess current and future storage needs as modernization efforts progress.

Along with the IT modernization request, these requests are part of the Copyright Office's multi-pronged planning to ensure modernization takes place across all of its operations. To enable appropriate analysis of staffing requirements, the Office initiated a number of internal assessments of its organizational structure and also recently commissioned a report that evaluated the Office's capabilities for collecting, monitoring, and analyzing all of its costs. The recommendations stemming from the assessments and report will be used to further monitor and refine workflows so that the work of all of the Office's employees is optimized.

PENDING CHANGES TO THE COPYRIGHT OFFICE FEE STRUCTURE

The Copyright Office recognizes that fees collected from users of its services are an important source of funding for ongoing operations, and that the Office must regularly evaluate the sufficiency of its fee structure, especially when making requests for additional appropriations.

In November 2017, the Copyright Office completed the first phase of an Office-wide fee study, bringing in expert consultants for the first time in decades to comprehensively evaluate the Office's fees. This initial study considered internal drivers of the Office's costs and external factors, such as an assessment of economic trends that affect stakeholder value, statutory restrictions, and policy goals. As part of this assessment, the Office also directed consultants to consider the costs of modernization of the Office's systems. Using recommendations resulting from that study, the Office is drafting a Federal Register notice requesting public comment on proposed fee changes.

As part of the Copyright Office's evaluation of fees, the Office supports possible changes to its overall funding legislation. For example, the Office would benefit from greater flexibility in the use of prior-year unobligated fee balances, which could allow the Office to provide services to the public in the event of a lapse in appropriations. Flexibility in management of prior-year balances across budget cycles also could provide for more efficient and cost-effective administration of large, non-recurring projects related to modernization and other capital expenditures. To that end, the Office submitted a request for a change in the fiscal year 2019 appropriations language to allow for 20% of the balance available in prior-year fees to be available each year, in addition to appropriated amounts, for obligation without fiscal year limitation, and to allow the Office to access prior-year balances to continue operations during a lapse in appropriations.

The Office also is interested in pursuing additional fee-setting options, such as through the use of subscription fees, differential fees, or additional fees for high-volume access to improved and modernized data. The Office would welcome explicit authorization from Congress permitting the Office to contemplate a wide range of fee types to further the use of the copyright system.

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The Copyright Office understands the significance associated with a budget request of the size and scope necessary to position the Office for success in an increasingly digital world. The Office is committed to its own continuous improvement and to an honest assessment of its needs and costs of services, and greatly appreciates the Committee's consideration of this request, as well as the ongoing support for the success of the Office and for the national copyright system.