



March 14, 2014

**Via Electronic Submission**

The Honorable Maria Pallante  
Register of Copyrights  
United States Copyright Office  
Library of Congress  
101 Independence Avenue, S.E.  
Washington, D.C. 20559-6003

Re: Notice of Inquiry re Strategic Plan for Recordation of Documents,  
Docket No. 2014-00638, 79 Fed. Reg. 2696 (Jan. 15, 2014)

Dear Ms. Pallante:

Microsoft Corporation respectfully submits these comments in response to the Copyright Office's Notice of Inquiry dated January 10, 2014, published in the Federal Register on January 15, 2014, 79 Fed. Reg. 2696 ("Notice of Inquiry"). As both a creator and user of copyrighted works, Microsoft has a strong interest in a well-functioning copyright system. For over 35 years, Microsoft has used the Copyright Office's processes and tools to register and record thousands of copyrighted works, and has relied on the Copyright Office's databases to search for and obtain information regarding copyrights owned by others.

As the Notice of Inquiry highlights, the current copyright recordation system is a relic not just of the 20<sup>th</sup> century but of the mid-19<sup>th</sup> century. It was created at a time when the most prevalent instrument of communication was a steel nib pen and the most common means of delivery was a horse. The Copyright Office has made commendable efforts in recent years to digitize some of those records and increase electronic access, but they have largely been partial measures that have not served to address the central and serious limitations of the current recordation system, such as mandated submissions on paper, inked signatures and manual creation of indexes.

Version 1 of the Copyright Office's recordation system has lasted for over 140 years; it is high time for version 2. The needs of both creators and users today require – and the technology available today allows – this new beginning. The current copyright term is life plus 70 years, which means that copyright ownership now extends through several generations.<sup>1</sup> Copyright ownership thus passes from the hands of one party to another, often multiple times, over the course of that long period. As a consequence, transparent and robust copyright ownership information is essential for the proper functioning of the system. Yet the current system fails to provide meaningful access to ownership

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<sup>1</sup> In contrast, when the current recordation system was implemented in 1870, the term of copyright was 28 years (with an extension possible for another 14 years) and average life expectancy was 45 years.

information and thus has created great problems, such as countless works lying fallow as orphans. A proper solution to the recordation problem will help solve that monumental problem.

In our digital age, we have the platforms and the means to digitize and disseminate tens of millions of works that are currently dormant; the largest obstacle is frictionless access to robust copyright ownership information about those works. Whatever solutions are considered, the Office should strive to close that gap and fully leverage the immense opportunities provided by the speed and the scale of our networked world. In short, the goal should be to attain copyright *at the speed of light*.

Version 2 will greatly benefit *all* who copyright exists to serve: creators, owners, users and the public at large. Countless works would spring to life by facilitating licenses where appropriate or broad uses of works that have no owner. We commend the Copyright Office for its attention to this worthy effort.

As to some of the other issues raised in the Notice of Inquiry:

#### **A Robust and Accessible Database Benefits Both Creators and the Public**

A Copyright Office database capable of serving today's technological world must be able to field a wide variety of requests for information related to works of all types. At a bare minimum, the database must provide readily accessible information that enables parties to effortlessly retrieve relevant electronic records with respect to works, identify current owners of works, and contact the owners of works. Accordingly, the use of structured electronic documents that enable electronic submission, indexing and cataloging would greatly streamline and improve the search and retrieval of such records. Similarly, linking the various electronic records and documents to registration records is a critical step to provide interested parties with robust, detailed and actionable information.<sup>2</sup>

We appreciate that building a database of recordation that serves the needs and requirements of a diverse group of creators is a difficult task that may require substantial resources. To help overcome this obstacle, the Copyright Office should look to leverage the resources and expertise of all stakeholders. For instance, the Office should provide information directly from its own website, and it also should enable access via standard application programming interfaces (APIs) that third parties could use to design and develop all manner of services, both commercial and non-commercial, using the data. Similarly, the Office should explore an "API-first" approach for the receipt of information, such as information relating to transfers, from third-party services. Doing so would allow the Copyright Office to focus on its core field of expertise – certifying that the submitted data meets legal requirements – rather than on designing user interfaces and data aggregation systems. The Copyright Office would thereby promote the broadest possible receipt of, access to and use of data. It would also encourage continued innovation in the technology, which would ultimately provide maximum benefit to creators, owners, users and the public.

#### **An Advanced Submission and Recordation Process is Foundational**

A technologically advanced recordation (and registration) system should present a party with easy-to-use online forms and templates optimized for the specific type and nature of his or her work.

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<sup>2</sup> Microsoft encourages the Copyright Office to implement these features via consistent standards that mirror the formats used to search and retrieve online records. For example, registration certificates are identified in a format such as TX 1-234-567, but the online database searches require input in a different format: 0001234567.

The submission process should be both comprehensive and comprehensible. With respect to feedback specifically requested by the Copyright Office, Microsoft supports modification of online recordation processes that:

- Makes copyright owners responsible for the accuracy of the information they submit;
- Provides easy means and incentives for copyright owners to keep information current;
- Enables copyright owners to easily correct inaccurate information;
- Removes unnecessary formalities, such as original signatures or notarized copies; and
- Replaces the Office's laborious manual review with online input processes that increase data entry accuracy by copyright owners<sup>3</sup>

Microsoft encourages the Copyright Office to consider innovations beyond mere refinement of its existing recordation practices. For example, enabling copyright owners to submit more robust data about their works would provide richer information to the public, thereby increasing precision and benefitting both creators and would-be users. One way this could be accomplished is by supporting industry standard metadata formats such as ISBN. Providing the means to increase information about works by beefing up metadata would greatly improve the functionality of the current registration and recordation systems as well as the health of the overall copyright system.

Microsoft appreciates the opportunity to contribute to this Notice of Inquiry and would be happy to provide any additional information you might find useful.

Sincerely,



Thomas C. Rubin  
Chief Intellectual Property Strategy Counsel

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<sup>3</sup> Most of Microsoft's registrations and recordation filings lend themselves to a template approach that could use drop down boxes or check boxes to ensure accuracy. Individualized information, such as the name of an author or the title of a work, can be verified via common e-commerce methods such as requiring duplicate and matching entries.