



**I**n FY 2000, the Copyright Office registered 515,612 claims, recorded 18,894 documents, created 554,537 catalog records, and collected and deposited approximately \$196 million in royalty fees. The Office transferred material with an estimated value of over \$32 million to the Library for its collections and exchange programs.

# Copyright Law Administration

## COPYRIGHT REGISTRATION



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hrough registration with the Copyright Office, a public record is made of the basic facts of a particular copyright.

During the year, the Office received 588,498 claims to copyright covering more than 800,000 works, and registered 515,612 claims.

The Examining Division is responsible for examination of all original and supplementary claims to copyright as well as renewals of copyright registrations. The division is organized into four sections: Literary, Performing Arts, Renewals, and Visual Arts. Except for renewals, each section receives copyright applications and deposits (copies of the work to be registered) according to subject matter. These materials are examined to determine whether the deposit contains copyrightable material, whether the claimant is entitled to claim copyright, and whether there has been compliance with the U.S. copyright laws and Office regulations.

Again this year, the Examining Division continued with high quantities of work on hand and intensive training for new examiners on how to examine accurately and efficiently. As with the past several years, hiring and training took precedence in order to build an examiner corps capable of handling new technology-related categories of claims.

A major change was made during the year in the way in which the Examining Division trains new examiners. Rather than a first-year training program during which an examiner trainee spends large amounts of time reading the provisions of the law, legislative history and treatises, and discussing theory with a senior examiner, the revised training program covers the law including relevant cases and historical foundations but does so in an incremental way, allowing the trainee to begin hands-on examining during the second week of his or her employment. This approach emphasizes the production aspect of examining work while encouraging an in-depth understanding of the principles of copyright law as they affect the registration process.

Continuing examiner education also took place at quarterly Division meetings during which staff members presented briefings on recent copyright cases and made presentations on current examining issues, including copyrightability, authorship and ownership. In addition, supervisory examiner monthly meetings were used to discuss substantive examining problems and case law. These discussions were shared with staff during monthly team meetings throughout the Division.

Interim examining guidelines were instituted by the Literary Section for use in an ever-increasing volume of claims in the content of websites and other online works. The guidelines allow for the registration of websites by fitting content into analogous current categories until new Office regulations are adopted. Staff in all sections have been trained in the registration of websites. Many website claims involved deposit copies of CD-ROMs and the claims raised questions about the deposit, the basis of the claim, the extent of the claim, and authorship issues, including questions on work made for hire. Most website claims cannot be cleared for registration as initially received.

### Group Registration of Photographs

In April 2000, the Copyright Office proposed regulations to facilitate group registration of published photographs. This is the latest in a series of actions that have taken place since 1995 in an attempt to accommodate photographers, who unlike most other authors, produce vast quantities of copyrightable works in short periods of time.

The latest proposals differ significantly from regulations proposed earlier in this rulemaking proceeding. They require the deposit of the actual photographic images, rather than merely written identifying descriptions for registration purposes. They pertain only to published photographs. This option for group registration of photographs would be available only for registration of works by a photographer that are published within one calendar year. In addition, the Office would liberalize the deposit requirements for groups of unpublished photographs registered as unpublished collections.

### Benefits of Copyright Registration:

- Registration establishes a public record of the copyright claim.
- Before an infringement suit may be filed in court, registration is necessary for works of U.S. origin.
- If made before or within five years of publication, registration will establish prima facie evidence in court of the validity of the copyright and of the facts stated in the certificate.
- If registration is made within three months after publication of the work or prior to an infringement of the work, statutory damages and the possibility of attorney's fees will be available to the copyright owner in court actions. Otherwise, with respect to damages, only an award of actual damages and profits is available to the copyright owner.
- Registration allows the owner of the copyright to record the registration with the U.S. Customs Service for protection against the importation of infringing copies.

## Copyright Office Electronic Registration, Recordation and Deposit System (CORDS)

CORDS is the Copyright Office's automated system to receive and process digital applications and digital deposits of copyrighted works for electronic registration via the Internet from a number of cooperating test partners. Through CORDS, copyright applications can be filed electronically by sending applications and deposits in digital form. The CORDS system facilitates full electronic processing, both initial preparation by the applicants on the "front end" and completely automated processing on the "back end" by the Copyright Office.

During the year, 15,428 claims were received through CORDS. The Copyright Office successfully tested and implemented CORDS system-to-system communications with its largest copyright remitter, Bell and Howell Information and Learning Corporation (formerly UMI), for electronic receipt and processing of claims for digital dissertations. In addition, music claims were processed through CORDS, with MP3 files as the deposit, submitted by the Harry Fox Agency, acting as the agent for member companies of the National Music Publishers Association.

To facilitate receipt of larger digital objects through CORDS in the future, the Office converted to an Ethernet network operating at 100 million bits per second. The Office also took steps to convert

the CORDS database processing to the Oracle Relational Database Management System, which is compatible with the underlying software of the Library's Integrated Library System.

### Works Protected by Copyright:

Copyright protects "original works of authorship" that are fixed in a tangible form of expression. The fixation need not be directly perceptible so long as it may be communicated with the aid of a machine or device.

Copyrightable works include the following categories:

- literary works
- computer programs
- databases (compilations)
- musical works, including any accompanying words
- dramatic works, including any accompanying music
- pantomimes and choreographic works
- pictorial, graphic, and sculptural works
- motion pictures and other audiovisual works
- sound recordings
- architectural works

### Appeals of Registration Actions

During the year, 220 appeals were filed for claims that had been rejected for registration. Most first appeal cases were generated within the Visual Arts Section, primarily involving jewelry and useful articles.

The Copyright Office Board of Appeals, which considers second appeals, met four times and heard 15 second appeals, involving 67 works. During the fiscal year, the Board issued decisional letters responding to 13 second appeals, covering 49 works, registering seven works and denying registration for 42 works.

## Renewals

Under the 1909 copyright law, works copyrighted in the United States before January 1, 1978, were subject to a renewal system in which the term of copyright was divided into two consecutive terms. Renewal registration, within strict time limits, was required as a condition of securing the second term and extending the copyright to its maximum length.

The Office registered 16,807 renewals in FY 2000.

Three examiners, one each from the Literary, VA and PA Sections, were trained in renewals subject matter. This cross-training aims at maintaining a sufficient staff that is knowledgeable and capable of handling future renewal claims.

## Related Registrations

### Vessel Hulls

Vessel Hull design registration receipts this year totaled 29 claims. In late 1999, Congress revised the original vessel hull legislation giving *sui generis* protection to the design of vessel hulls and enacted the Intellectual Property and Communications Omnibus Reform Act of 1999 which, among other things, changed the definition of a “vessel” [...in addition to being able to navigate on/through water, a “vessel” must now be self-propelled and be able to be steered and must be designed to carry at least one passenger] and made chapter 13 a permanent part of title 17. Additionally, the Copyright Office may now assess to a losing party all costs of a cancellation proceeding, regardless of which party initiated the proceeding. Questions from the public continue to challenge the boundaries of what is included in the definition of a “vessel hull” or “deck”.

### Mask Works

The Semiconductor Chip Protection Act of 1984 provides for federal statutory protection for mask works fixed in semiconductor chip products. A mask work is defined as a series of related images, however fixed or encoded, (1) having or representing the predetermined three-dimensional pattern of metallic, insulating, or semiconductor material present or removed from the layers of a semiconductor chip product; and (2) in which the relation of the images to one another is that each image has the pattern of the surface of one form of the semiconductor chip product. Although these images or patterns are purely functional features, they are nevertheless

### The Renewal System

Public Law 102-307, enacted on June 26, 1992, amended the 1976 Copyright Act to make renewal automatic and renewal registration optional for works originally copyrighted between January 1, 1964 and December 31, 1977. Although the renewal term is automatically provided, the Copyright Office does not issue a renewal certificate for these works unless a renewal application and fee are received and registered in the Copyright Office.

**The Vessel Hull Design Protection Act** was signed into law on October 28, 1998. The new law grants an owner of an original vessel hull design certain exclusive rights provided that application for registration of the design with the Copyright Office is made within two years of the design being made public. Vessel hull deposit material may consist of either drawings or photographs of the design.

protected, provided that the particular mask work is neither dictated by a particular electronic function nor is one of only a few available design choices that will accomplish that function.

Mask works registered this fiscal year totaled 758, about 25% fewer than those of previous years.

### **Impact of the July 1999 Filing Fee Increase**

The filing fee increase of July 1999 negatively affected registration processing during the first half of the fiscal year. A fiscal year record of 58,106 claims arrived in the Office with insufficient or “short fees.” These claims required additional processing steps in the Receiving and Processing Division. However, short fee claims declined over the year, from an average of 1,500 per week for the first several months to about 600 per week at the end of FY 2000.

### **Cataloging**

Title 17 requires the Register of Copyrights to provide and keep records of all deposits, registrations, recordations, and other copyright-related matters such as renewals and to prepare indexes of all the records.

The Cataloging Division records the bibliographic description and the copyright facts of all works registered in the Copyright Office. The division also records all works not registered but deposited in the Office. The public record created by the division also includes all documents relating to copyright such as transfers of ownership contracts between authors and publishers, security interests, terminations, and transfers of ownership that are submitted to the Office for recordation. The records provide legal and bibliographic reference access to information of record relating to registrations, deposits, recorded assignments, and other documents.

The Cataloging Division received 526,335 registrations in FY 2000 and created cataloging records for 554,537, a 2% increase over 1999. Supervisors balanced staff resources and managed incoming materials by using intersectional and cross team assistance. Senior catalogers were trained to handle different classes of material as well as multiple title documents. Division supervisors provided cataloging and title input assistance.

The Division also cataloged claims for renewals, vessel hulls, mask works, and CORDS. Processing online service providers’ agent designations is a Cataloging Division responsibility that began in December 1998. By the end of the fiscal year, 1,029 interim designations of agent had been posted to the Copyright Office website.

## RECORDATION

**A**ny document pertaining to a copyright can be recorded in the Copyright Office. Many relate to transfers of ownership. Any or all of the copyright owner's exclusive rights or any subdivision of those rights may be transferred, but the transfer of exclusive rights is not valid unless that transfer is in writing and signed by the owner of the rights conveyed or such owner's duly authorized agent. Recorded documents include assignments, security interests, notices of termination of transfers, statements of death, and notices of errors in the name in a copyright notice.

The Documents Recordation Section received documents with 384,826 titles for recordation this year, an increase of 97% over last year's receipts. The Section cleared 399,088 titles, an increase of 198% over last year's title clearances as a result of the Multiple Title Documents Project, which was a backlog reduction effort. The Section received 15,792 documents and cleared 18,894.

The management of the Documents Recordation Section was reassigned in September 1999 to the Associate Register for National Copyright Programs as an interim measure while the Section began implementing improvements in document processing. In January 2000, the Documents Recordation Section returned to the management of the Cataloging Division.

## MANDATORY DEPOSIT

The mandatory deposit provision of the copyright law provides that the Copyright Office is entitled to receive copies of every copyrightable work published in the United States. Section 704(b) of the Copyright Act states that these published deposits “are available to the Library of Congress for its collections, or for the exchange or transfer to any other library.” The Copyright Acquisitions Division (CAD) uses the mandatory deposit requirement of the 1976 Copyright Act (section 407) as well as Copyright Office regulations to acquire works needed for the collections of the Library of Congress. The copyright statute authorizes the Register of Copyrights to issue demands for the required copies for deposit anytime after publication. The Division acquires works not voluntarily deposited that have been identified as needed for the Library’s collections by the Division’s copyright acquisitions specialists and the Library’s recommending officers. One goal of the Division is to persuade copyright owners to deposit or register works regularly and voluntarily and as soon as possible after publication.

During FY 2000 the Copyright Office, through CAD, transferred to the Library a total of 217,986 copies, with an estimated value of \$6,049,682 received from copyright owners under the mandatory deposit provisions of the Copyright Act. Most of these deposits are made automatically and voluntarily as a result of the Division’s regular and systematic contacts with copyright owners.

### **Expedited Deposits (Speedy Serials)**

The Congressional Research Service (CRS) and the Law Library continue to depend upon CAD’S Speedy Serials Project for the expedited delivery of approximately 335 serial titles. CAD confirmed that only 205 titles are considered active titles with recorded receipts from 1999 to the present. At year’s end, CAD staff was in the process of determining the publication and deposit status of the remaining 130 titles, so formal demands could be issued as appropriate.

## Changes in Practices

The General Counsel was consulted to discuss the interpretation of section 705 of the Copyright Law which states, “The Register of Copyrights shall provide and keep in the Copyright Office records of all deposits,…” To ensure compliance with this section of the law, during the year the following actions were taken:

- **Recording section 407 receipts by the Serial Record Division (SRD, Library of Congress):** The Office drafted a “Housekeeping Amendment” to give the Copyright Office flexibility in keeping and maintaining records relating to copyright deposits. This was introduced, and by the end of the year, it became law as part of the Work Made for Hire and Copyright Corrections Act of 2000.
- **Deposit records for non-selected serials:** The Office decided that once CAD has notified submitters that their titles will not be retained by the Library, neither CAD nor SRD would be required to maintain records or any additional deposits.

## Transfer of Compliance Records Unit

The Compliance Records Unit was officially transferred from the Copyright Cataloging Division to CAD effective September 11, 2000. This reorganization brings together all aspects of administering section 407 of the U.S. Copyright Law under one organizational structure within the Office. It improves the efficiency for monitoring compliance with the mandatory deposit provision and transferring copyright deposits to the Library.

## LICENSING

The Licensing Division administers the compulsory licenses and statutory obligations contained in the Copyright Act. It collects royalty fees from cable operators for retransmitting television and radio broadcasts, from satellite carriers for retransmitting “superstation” and network signals, and from importers and manufacturers for

digital audio recording products. The Division deducts its full operating costs from the royalty fees and invests the balance in interest-bearing securities with the U.S. Treasury for later distribution to copyright owners.

### Statutory Licenses and Obligations:

- Statutory license for secondary transmissions by cable systems (section 111)
- Statutory license for making ephemeral recordings (section 112)
- Statutory license for the public performance of sound recordings by means of a digital audio transmission (section 114)
- Statutory license for making and distributing phonorecords (section 115)
- Statutory license for public performances on coin-operated phonorecord players (sections 116 and 116A)
- Statutory license for the use of certain works in connection with noncommercial broadcasting (section 118)
- Statutory license for secondary transmissions by satellite carriers for private home viewing (section 119)
- Statutory license for secondary transmissions by satellite carriers for local retransmissions (section 122)
- Statutory obligation for distribution of digital audio tape recorders and media (chapter 10)

### Royalty Fee Distributions

The Copyright Office distributes royalties collected under sections 111, 119 and chapter 10.

In FY 2000, the following distributions were made:

- On October 28, 1999, the largest distribution of copyright royalties to date was made totaling \$321,665,999.86. This distribution comprised 98% of the 1993-1996 cable royalties, and 75% of the 1997 royalties.
- On January 13, 2000, satellite carrier royalty fees totaling \$3,937,871.64 were distributed. This was a final distribution of funds covering 1992-1995.
- On January 27, 2000, a partial distribution of the 1995-1998 Digital Audio Recording Technology (DART) royalty funds was made, totaling \$792,975.53.
- On May 25, 2000, a distribution was made totalling \$39,185,398.32 and comprised a full distribution of the remaining 1993-1996 cable television royalties and a \$35 million partial distribution for 1997.
- On June 15, 2000, a full distribution of the Sound Recording Fund for 1999 DART royalties was made in the amount of \$2,242,230.81.

The Division also assisted in reviewing motions for distribution and in developing appropriate distribution decisions.

Financial statements of 1999 royalty fees available for distribution in the cable television and satellite carrier statutory licenses, and in the digital audio recording technology statutory obligation are included in the appendices.

Outstanding royalty investments totaled more than \$614 million during the year, earning \$32 million in interest. Deposits totaled approximately \$196 million in 305 deposits with 3,820 remittances (checks and electronic funds transfer) covering 21,243 statements of account. Electronic Fund Transfers (EFT) now account for 87.9% of royalty fee deposits.

The Licensing Examining Section examines all documents associated with the compulsory licenses and statutory obligations. The Section examined 16,293 cable statements of account and 251 amendments to these statements, 50 DART statements, 15 Satellite Carrier statements, and 1,729 section 114 Notices. A total of \$459,992.71 in additional royalties that would have otherwise been lost was recouped for copyright owners.

### **Satellite Home Viewer Improvement Act of 1999 Implementation**

On November 29, 1999, the Satellite Home Viewer Improvement Act of 1999 (SHVIA) amended section 119 of the Copyright Law, adjusting the royalty rates for superstation and network stations carried by satellite carriers to 18.90 and 14.85 cents per subscriber. The new rates became effective on July 1, 1999. The SHVIA also permits satellite carriers to retransmit the national satellite feed distributed and designated by the Public Broadcasting Service. Further, this legislation also modified the terms “unserved household,” “superstation,” “local market,” and “network station.”

Under the SHVIA, satellite carriers may retransmit no more than two network stations affiliated with a single network in a single day to an “unserved household” not located within the local markets of those network stations. An exception to this provision in section 119(a)(2)(B)(iii) of the law applies to certain C-band satellite services. The SHVIA also created a new royalty-free statutory license in section 122 of the copyright law which authorizes the retransmission of television broadcast stations by satellite carriers to all subscribers located within the local markets of those stations.

### **Implementation of Section 114 License**

Beginning in October 1999, the Division began receiving Initial Notice documents filed pursuant to section 114 of the copyright law and posted them on the Office's website. The filing of an Initial Notice is required in order that copyright owners may receive reasonable notice of use of their sound recordings under the statutory license.

this provision was created on November 1, 1995, when Congress enacted the Digital Performance in Sound Recordings Act of 1995, which gave sound recording copyright owners an exclusive right to perform their works publicly by means of a digital audio transmission, and created a statutory license for certain nonexempt digital subscription services.

This section 114 provision was later expanded with the enactment of the Digital Millennium Copyright Act of 1998 (DMCA) to allow a nonexempt, eligible nonsubscription transmission service and a pre-existing satellite digital audio radio service to perform a sound recording publicly by means of certain digital audio transmissions, subject to the filing of an Initial Notice and certain other record keeping requirements.

The Licensing Information and Examining Sections developed operation and workflow procedures for administering the new license. Under the section 114 license, the Licensing Division receives and examines the Initial Notice documents, and then posts the completed documents on the Copyright Office website. A \$20.00 fee is required for each Initial Notice, or for each service embodied in a Notice for which the remitter requests a separate listing on the website. Copies of the notices are also available for public inspection and photocopying in the Division's Public Records Office.

### Copyright Arbitration Royalty Panels (CARP)

During this fiscal year, the Copyright Office was involved in the administration of five CARP proceedings. Three of the five proceedings involved setting rates and terms for the mechanical license, 17 U.S.C. 115; the digital performance right in sound recordings license, 17 U.S.C. 114; and the ephemeral recording license, 17 U.S.C. 112. The other two proceedings dealt with the distribution of royalty fees collected in accordance with the Audio Home Recording Act of 1992, 17 U.S.C. chapter 10, and the cable statutory license, 17 U.S.C. 111.

### Rate Adjustments

On July 20, 1999, the Office announced the voluntary negotiation period for the proceeding to adjust the rates and terms for the digital component of the section 115 license. The negotiation period ran from the date of publication of the announcement in the *Federal Register* to December 31, 1999. On January 24, 2000, a petition was filed with the Copyright Office to convene a CARP to set new rates and terms for Digital Phonorecord Deliveries. The petition was not acted on during FY 2000, and negotiations continued among interested parties.

The Copyright Office also initiated another rate adjustment proceeding to establish rates and terms for the public performance of sound recordings by means of eligible nonsubscription transmissions such as webcasting (the section 114 license as amended by the DMCA) and the making of an ephemeral recording in furtherance of the permitted public performance of the sound recording (the section 112 license) for the period 1998-2000. The Copyright Office announced the six-month voluntary negotiation periods associated with these licenses on November 27, 1998. The voluntary negotiation periods concluded with no proposed settlement being filed with the Copyright Office.

### Copyright Arbitration Royalty Panels (CARP)

CARPs make determinations about distribution of royalties collected by the Licensing Division for the cable license, the satellite compulsory license, and the digital audio recording devices and media obligation. They also adjust royalty rates. A CARP panel consists of two arbitrators selected by the Librarian of Congress upon the recommendation of the Register of Copyrights, with a third, who is chairperson, selected by the first two. The first CARP proceeding took place in 1996 and determined the distribution of more than \$500 million among copyright owners of broadcast programming retransmitted by cable systems.

Rate adjustments and royalty distribution proceedings under CARPs are divided into two essential phases. The first is the 45-day pre-controversy discovery period during which the parties engage in pre-CARP motions practice and exchange their documentation and evidence in support of their cases, in preparation for the hearings before the CARP.

The second phase is the proceeding before a CARP itself, including the presentation of evidence through hearings and submission of proposed findings by all of the parties. CARPs have 180 days to conduct a proceeding, including receiving evidence and submitting the final written decision to the Register of Copyrights. Within 60 days of receipt of the report, the Librarian of Congress, on the recommendation of the Register of Copyrights, must either accept or reject the panel's determination. If the Librarian rejects the CARP's decision, he has 30 additional days in which to substitute his own determination.

Consequently, the Office announced the schedule for the arbitration proceeding to set the rates and terms for these two statutory licenses on September 27, 1999. On December 22, 1999, the Office vacated the schedule announced in the *Federal Register* at the request of the parties in order to allow more time to negotiate a settlement.

The Office also announced the initiation of the voluntary negotiation period for determining reasonable rates and terms for the amended section 114 and section 112 licenses for the time period 2001-2002. The negotiation period began on January 13, 2000. The Office received a petition to adjust the rates and published a *Federal Register* notice seeking comment on the petition from interested parties and notices of intent to participate in a CARP proceeding,

In January 2000, the Joint Sports Claimants and the Program Suppliers filed petitions asking the Office to initiate a cable rate adjustment proceeding. After extended negotiations, copyright owners and cable representatives reached a settlement as to the adjustment of the royalty rates and gross receipts limitations. The Office published a notice of the settlement in the *Federal Register* to determine whether a CARP proceeding is necessary.

### Distribution Proceedings

The Office began a proceeding to resolve the controversies surrounding the distribution of the 1995-1998 royalty fees collected for the distribution of digital audio recording technology. The remaining controversies existed within the Musical Works Funds for these years. The 180-day arbitration period began on April 10, 2000. Eight parties appeared before the CARP. The arbitrators met with the parties on June 19, 2000, in order to set the schedule for the proceeding. The Panel was to decide the proceeding on the basis of the written pleadings. The parties filed their proposed findings of fact and conclusions of law and their reply findings. At the end of the fiscal year, the Panel was in the process of rendering its final decision. The Panel's report was due to the Librarian by November 13, 2000.

The second proceeding involved the distribution of the 1993-1997 cable royalty fees — an expansion over the Office's initial objective to resolve the remaining controversies for 1993 and 1994 in the next scheduled proceeding. The parties to this proceeding, however, worked out a Phase I settlement for 1993 and 1994, in addition to a Phase I settlement for 1995-1997. Because no controversies remained among the claimant groups for these years, the parties with an interest in these proceedings filed a joint motion on September 29, 1999, with the Copyright Office, requesting the termination of the scheduled Phase I proceedings and the distribution of all funds, excluding a sum sufficient to resolve the outstanding Phase II claims for these years. These funds were distributed on October 28, 1999.

The Office began the proceeding to resolve the Phase II controversies in the distribution of the funds for these years in the Program Supplier category. Settlement was reached by all parties in this category except for the Program Suppliers and the Independent Producers Group, who had a controversy with respect to distribution of the 1997 motion picture and syndicated programming funds. These parties filed their written direct cases on April 3, 2000, and concluded discovery. The 180-day arbitration period was to begin on October 17, 2000, with the arbitrators meeting with the parties on that date in order to set the schedule for the proceeding.

### **Claims Filed for Royalty Fees**

The Office received and processed claims from copyright owners who are entitled to receive royalty fees generated from the use of their copyrighted works during 1999 under the terms of the cable, satellite, and DART compulsory licenses. In January and February of 2000, the Office received 40 claims for DART royalty fees. In July of 2000, it received 580 claims for cable royalty fees and 197 claims for satellite royalty fees. Distribution proceedings will begin for these royalty funds after the Office ascertains whether disagreements exist concerning the distribution of the funds among the claimants.

### **Regulations**

#### NOTICE AND RECORD KEEPING FOR NON-SUBSCRIPTION DIGITAL TRANSMISSIONS

Section 114 of the Copyright Act establishes a statutory license for the public performance of a sound recording by means of digital audio transmissions, provided that the service adheres to the terms of the license and complies with the notice and record keeping regulations promulgated by the Librarian of Congress. Under these regulations, each digital subscription service must file an initial notice of digital transmission with the Copyright Office. The Office extended the original October 15, 1999, deadline for filing such notices to December 1, 1999, at the request of the National Association of Broadcasters.

#### COST OF LIVING ADJUSTMENT FOR PERFORMANCE OF MUSICAL COMPOSITIONS BY COLLEGES AND UNIVERSITIES

Each year, the Copyright Office adjusts the rates for the public performance of musical compositions in the ASCAP, BMI, and SESAC repertories by public broadcasting entities licensed to colleges and universities to reflect the change in the Consumer Price Index. The Office published the rates, adjusting for a 2.6% cost of living increase, on December 1, 1999.

## DEFINITION OF AN UNSERVED HOUSEHOLD FOR THE SATELLITE CARRIER STATUTORY LICENSE

Prior to the passage of the Satellite Home Viewer Improvement Act of 1999 (SHVIA), the Copyright Office opened a rulemaking proceeding to consider whether the existing section 119 satellite compulsory license for the retransmission of over-the-air television broadcast signals included the retransmission of local signals. Because Congress amended the satellite license expressly to include local signals, the Office terminated the rulemaking proceeding.

## DEFINITION OF A SERVICE FOR THE PUBLIC PERFORMANCE OF SOUND RECORDINGS

The Copyright Office issued a notice of proposed rulemaking to determine the scope of the definition of a “service” under section 114 of the Copyright Act which grants the copyright owners of sound recordings a limited performance right. The Recording Industry Association of America requested the rulemaking and asked that the Office determine that broadcasters who transmit their over-the-air radio signal over the Internet are not exempt from copyright liability. At the end of the fiscal year, the Office was considering the comments received on the proposed rule.

## DEFINITION OF AN INTERACTIVE SERVICE FOR THE PUBLIC PERFORMANCE OF SOUND RECORDINGS

The Copyright Office issued a notice of inquiry regarding a petition for rulemaking received from the Digital Media Association (DiMA). DiMA requested that the Office interpret the definition of an “interactive service” in section 114 of the Copyright Act to exclude webcasters of recorded music who make limited inquiries of their subscribers’ musical preferences. The Office sought public comment on how to proceed with DiMA’s petition and whether a rulemaking proceeding is necessary or appropriate. At the end of FY 2000, the Office was considering the comments received in response to the notice of inquiry.

## ADJUSTMENT OF THE CABLE STATUTORY LICENSE ROYALTY RATES

Every five years the royalty rates for the section 111 cable statutory license may be adjusted upon petition to the Copyright Office. The Office received two such petitions and prepared to initiate a Copyright Arbitration Royalty Panel proceeding to adjust the rates. The parties to the proceeding, however, reached a settlement, and the Office published the proposed rate adjustments. The rates paid by cable operators for the retransmission of over-the-air broadcast signals were increased, as were the gross receipts limitations determining the calculation of the royalty fees.