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May 14, 2012

Library of Congress  
U.S. Copyright Office  
Room LM-403  
James Madison Building  
101 Independence Avenue, SE  
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**Submitted Electronically**

**RE: Comments of the Association of American Publishers in Response to the Notice of Proposed Rulemaking on Copyright Office Fee Changes [Docket No. 2012-1]**

Pursuant to the Notice of Proposed Rulemaking (NPRM) published by the U.S. Copyright Office in the Federal Register, 77 FR 18742 (daily edition, March 28, 2012), the Association of American Publishers ("AAP") submits these Comments on behalf of its members regarding the proposed changes to fees charged by the Copyright Office for the registration of claims and other important services.

As the principal national trade association of the U.S. book publishing industry, AAP represents some 250 member companies and organizations that include most of the major commercial book and journal publishers in the United States, as well as many small and non-profit publishers, university presses and scholarly societies. AAP members publish literary works in hardcover and paperback formats in every field of human interest, including trade books of fiction and non-fiction; textbooks and other instructional materials for the elementary, secondary, and postsecondary educational markets; reference works; and scientific, technical, medical, professional and scholarly books and journals. In addition to publishing in print formats, AAP members are active in the ebook and audiobook markets, and also produce computer programs, databases, Web sites and a variety of multimedia works for use in online and other digital formats. AAP advocates the public policy interests of its members, including the protection of intellectual property rights in all media; the defense of both the freedom to read and the freedom to publish at home and abroad; the advancement of education; and, the promotion of literacy and reading.

AAP members are frequent and regular users of some of the fee-based services provided by the Copyright Office, with many AAP members requesting and paying for such services not only on their own behalf as copyright owners but also on behalf of the authors of the works they publish. Although these publishers utilize several of the services for which changes in fees have been proposed in the NPRM, they are primarily concerned with proposed increases in the fees charged for registering copyrighted works.

As a member of the Copyright Alliance, AAP supports the comments that have been submitted to the Copyright Office by that organization as they generally reflect the views, concerns and recommendations that AAP's members would deem important to convey to the Copyright Office in connection with its consideration of adoption of the fee changes proposed in the NPRM. For that reason, these comments will not reiterate the points that have been raised in the comments submitted by the Copyright Alliance, but will instead briefly provide some additional supportive factual information and raise a key issue for Congress which was not addressed in those comments.

As noted at the outset, AAP membership includes a diverse range of small and independent publishers, as well as large commercial and nonprofit publishers. Among the AAP members who provided information to AAP (requesting that such information should not be specifically attributed or identifiable to them for business reasons):

- The number of registrations filed annually ranges from low double-digits to more than 10,000 for individual book titles and journal issues.
- Several commercial publishers that file registrations for journal issues indicated that, in addition to filing registrations for their own journals, they also file hundreds of registrations annually in the name of nonprofit society-owned journals that they publish on behalf of such smaller organizations.
- For some members, particularly publishers of educational or reference works, at least one-third of their annual registrations may be for works made for hire.
- Increasingly, some members are moving beyond a focus on U.S.-based titles to ramp up their registration programs for non-U.S. titles.

While AAP member publishers appreciate the importance of registration for their own copyright enforcement interests, as well as for a variety of other public policy purposes, the pending proposal to nearly *double* current online registration fees would, if adopted, lead many of them, especially but not exclusively the small or non-profit publishers, to reevaluate the categories of works currently being registered with the objective of reducing their registration costs. They may, for example, consider whether the ability to bring a copyright infringement case for statutory damages – a rare necessity for publishers of certain kinds of works – is a benefit that justifies incurring a substantial increase in upfront costs when they might instead save money by simply relying upon their ability to register a work when the need arises to pursue the filing of a copyright infringement action.

It is a matter of consternation to many publishers that *online* registration, which the Copyright Office originally touted to copyright owners as a *cost-saving* alternative to paper-based registration, could experience such a substantial fee increase within such a relatively short time since it became an available option for copyright owners in 2007. If such copyright owners should determine to reduce their costs by foregoing registration of their works, such decisions would at least be informed by their knowledge of the relative costs and benefits involved. However, it is likely that increased registration fees will also serve as a disincentive to the many



new self-publishing authors that are emerging in the Internet environment, whose decisions to forego registration will likely be made without the advice or support of publishing houses that understand the importance of registration for copyright owners and others within the copyright ecosystem. In combination, such reductions in registration would, among other things, exacerbate the “orphan works” problem that the Copyright Office is so anxious to solve.

AAP and its members understand the desire and need for the Copyright Office to have greater success than it has previously experienced in its efforts to recover the costs of providing registration and other services to copyright owners and users of copyrighted works. However, they are also aware that the cost-recovery imperative that seems to be driving the proposed increase in registration and other service fees is, in substantial part, due to cut-backs in appropriations from Congress.

As the Register of Copyrights explained last month in testimony before the House Committee on Administration’s Subcommittee on Oversight, the Copyright Office generally receives two-thirds of its budget from fees (and the authority to spend them) and one-third of its budget from appropriations. Yet, since fiscal 2010, it has experienced a 22.7% reduction in direct appropriations (resulting in a 7% overall reduction in total budget when taking into account offsetting authority from the collection of fees), and is now having to work with an enacted budget for fiscal 2012 that directed the Copyright Office to utilize no-year funding (collected from fees for services) to offset expenses.

Given the many challenges that now confront the Copyright Office as summarized in its “Priorities and Special Projects” paper, AAP and its members urge the Copyright Office to continue to press Congress not only for the restoration of its base funding for fiscal 2013, but also for Congress to concretely demonstrate – in the form of appropriations and fee-spending authority – its oft-cited support for the Copyright Office’s view that registration provides benefits to the public and the Library of Congress that balance the needs to recover costs.

Respectfully Submitted,



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