

Statement of

MARIA A. PALLANTE

**UNITED STATES REGISTER OF COPYRIGHTS AND
DIRECTOR OF THE U. S. COPYRIGHT OFFICE**

BEFORE THE

**SUBCOMMITTEE ON THE LEGISLATIVE BRANCH
COMMITTEE ON APPROPRIATIONS**

UNITED STATES SENATE

Fiscal 2017 Budget Request for the U.S. Copyright Office

March 15, 2016

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Madame Chairman Capito, Ranking Member Schatz and Members of the Subcommittee:

Thank you for the opportunity to present written testimony in support of the Fiscal 2017 Budget Request of the United States Copyright Office. The Copyright Office's core operations are funded through two sources: fees paid by authors, corporate entities, and other customers; and annual appropriated dollars that reflect the value of the Copyright Office's services to both the public and the economy. Historically, fees have made up the majority of this funding, with a range of 58% to 67% over the past five years.

Mission, Policy Work and Strategic Plans

The Copyright Office has a critical mission within the United States government. It administers the Nation's copyright laws for the advancement of the public good; offers services and support to authors and users of creative works; and provides expert, impartial assistance to Congress, the courts, and executive branch agencies on questions of law and policy, including in the context of interagency discussions or intergovernmental negotiations.

In the past few years alone, the Copyright Office has undertaken a tireless schedule of studies and public meetings regarding areas of both copyright law and copyright administration, all geared towards updating, clarifying and improving the national copyright system. As directed by Congress, some of these reports contain legislative recommendations: for example, in publishing *Copyright Small Claims*, the Copyright Office analyzes and advises on the benefits of creating a small claims mechanism outside of federal court. Other efforts reflect significant updates to the administrative practices that implement the Copyright Act: for example, in publishing the *Compendium of U.S. Copyright Office Practices, Third Edition*, the Copyright Office completed the first comprehensive revision of the Office's administrative manual for copyright registration and recordation in decades.

The Copyright Office serves a wide diversity of customers worth trillions of dollars to the U.S. economy—from video game developers to mobile device manufacturers, from movie studios to internet streaming companies, from music creators to online music services, from educators to libraries. The goal today is ensuring that the Office is positioned to meet the current and future needs of these essential stakeholders.

Not surprisingly, modernization goals are connected to the evolving and dynamic role of technology in the copyright marketplace. Today, it is commonplace for musicians to record songs on a smartphone or tablet, capturing in real time all the data needed to satisfy copyright registration requirements. By the same token, a digital music service trying to license that song and millions of others should be able to connect its servers directly to the Copyright Office via an API and search our data completely. Photographers, newspapers and software developers, among others, all need targeted attention to ensure services are optimal and regulations are appropriate. To accomplish these goals, we must shift the approach of the past entirely, and provide a flexible platform that others can build upon for the effortless protection and licensing of copyrighted works, and allow customers to complete transactions with the Copyright Office in real time, whether to protect their legal rights or to access or share business data.

To this end, and as further discussed below, the Copyright Office released two key documents in recent months that reflect our nuanced thinking and deliberations: (1) a five-year strategic plan on December 1, 2015, entitled *Positioning the U.S. Copyright Office for the Future: 2016-2020*¹ and (2) a five-year IT plan on February 29, 2016, entitled *Provisional Information Technology Modernization Plan*,² which provides a basis for FY 2017 and 2018 activities.

Together these plans set a path by which to recalibrate almost all of the Copyright Office's services, from how it registers copyright interests in all kinds of creative works, to how it records and shares critical copyright data. The plans map to the strategic plan of the Library of Congress, which states in relevant part that it will "[w]ork with the U.S. Copyright Office to develop modernized copyrights systems and practices, in accordance with copyright laws and public objectives." The Copyright Office and Library are also well positioned now to discuss relative points of alignment and relative responsibilities for information technology services.

In general, the Copyright Office IT plan recommends a clean slate approach, in which the Copyright Office is responsible for building new mission-critical applications within a dedicated enterprise architecture, and retiring rather than migrating legacy systems. The IT plan leverages flexible cloud technologies, while minimizing the need for an unwieldy and capital-intensive data center. This approach will allow the Office to remain nimble, and adapt to the ever-evolving needs of the copyright marketplace. It positions the Office to develop and link a number of IT programs and

¹ <http://copyright.gov/reports/strategic-plan/USCO-strategic.pdf>.

² See www.copyright.gov/reports/itplan/.

data needs that are best suited to its various functions, *i.e.*, developing separate business models for copyright registration and copyright recordation, and integrating the respective data sets as appropriate.

At the House Appropriations Committee's request,³ the Copyright Office has recently posed several questions regarding funding and implementation to the public.⁴

FY 2017 Appropriations Request

Turning to our FY 2017 appropriations request, the Copyright Office has three line items, as follows:

(1) Copyright Basic budget, which funds most Copyright Office operations — \$66.870 million

(2) Copyright Licensing Division, which is a fiscal operation that disperses royalty income after statutory distribution proceedings and is funded by fees from private parties — \$ 5.531 million

(3) Copyright Royalty Judges, who report to the Librarian but are included by the Library under the Register's budget for administrative convenience — \$ 1.625 million

We have provided budget justifications for all of the above items through the agency appropriations process,⁵ however, the first item is the heart of Copyright Office operations and the focus of my testimony today.

In FY 2017, for Copyright Basic, the Copyright Office has requested (1) authority to spend \$33.619 million of offsetting collections, *i.e.*, fees collected from customers for

³ In the House Report accompanying the FY2016 appropriations bill, the Committee stated:

The Committee fully understands the importance of the Copyright Office as it relates to creativity and commercial artistic activity not only within the United States but also on a world-wide basis. In order to serve the copyright owners and the copyright community in the 21st century, a robust modern information technology (IT) operation will be necessary. . . . [T]he Committee directs the Register of Copyrights to report, to the Committee on Appropriation and relevant Authorizing Committees of the House on a detailed plan on necessary IT upgrades, with a cost estimate, that are required for a 21st century copyright organization. In addition to the cost estimate, the Register shall include recommendations on a funding strategy and a time frame for completion of a new IT system that is necessary to better serve the public in the digital age. The Register should seek public comments to help inform the Copyright Office with the funding strategy and implementation timeline.

H. Rep. No. 114-110 (2015).

⁴ See <http://copyright.gov/policy/itupgrade/index.html>.

⁵ LIBRARY OF CONGRESS, FISCAL 2017 BUDGET JUSTIFICATION 109, *available at* <https://www.loc.gov/portals/static/about/reports-and-budgets/documents/budgets/fy2017.pdf>.

services during that fiscal year; (2) authority to utilize \$6.147 million from the Office's reserve account, *i.e.*, unobligated fees collected during prior fiscal year(s); and (3) \$27.104 million in taxpayer support.

Because this request was prepared prior to the completion of the Provisional IT Plan, it does not assume the elements of a future technology state that are discussed therein. Rather, much of the FY 2017 request is directed towards maintaining the current state of operation for the Copyright Office and replenishing depleted staff to ensure we have sufficient personnel to meet our current responsibilities under the Copyright Act. The request prioritizes an increase in FTEs, many of which would be dedicated to improving existing services, for example, technicians to speed the production of certified copies of copyright deposits and other materials. (Some would be devoted to transitional assignments involving planning activities.)

The Office's FY 2017 request represents an increase in the basic budget of \$14.967 million over FY 2016. The great majority of the \$13.634 million in programmatic increases, \$9.766 million, would be covered by fees collected in FY 2017 or prior fiscal years, should the Committee authorize increased spending authority. As explained in the budget justification,⁶ we have aligned the request for increased spending authority with those program changes that support copyright owners paying fees into the copyright system, *e.g.*, increased staffing in our copyright registration and recordation groups. In addition to the increase in spending authority, the 2017 request includes \$5.201 million in taxpayer support. We have aligned the latter request to program changes that serve the general public or businesses taking advantage of free public data, such as increased staffing of the legal and policy departments and public information office, and to account for mandatory pay and price level changes.

The Copyright Office greatly appreciates the Committee's ongoing interest in, and support of, the national copyright system. At your direction, we stand ready to further discuss and report on any and all matters outlined above.

⁶ LIBRARY OF CONGRESS, FISCAL 2017 BUDGET JUSTIFICATION at 119.