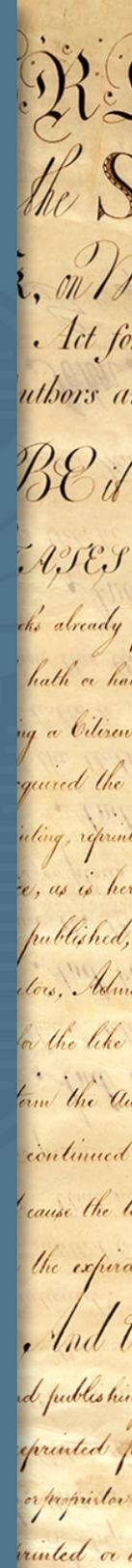
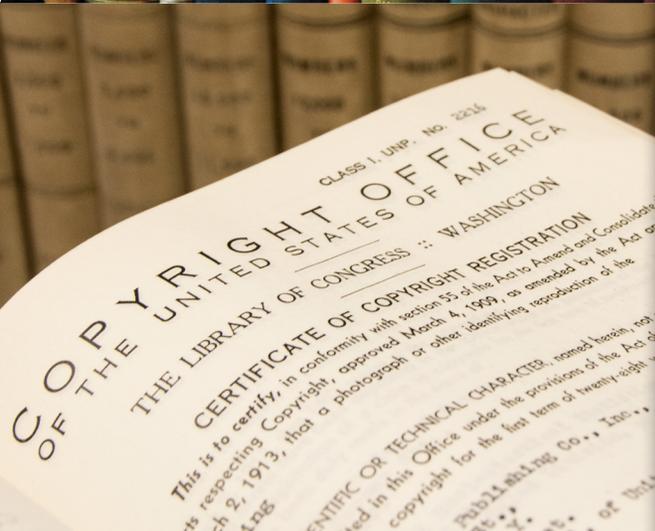




UNITED STATES COPYRIGHT OFFICE

FISCAL 2016 ANNUAL REPORT



“Over the span of 225 years, U.S. copyright law has promoted the role of creative expression as a public good.”

—2016–2020 COPYRIGHT OFFICE STRATEGIC PLAN



UNITED STATES COPYRIGHT OFFICE

FISCAL 2016 ANNUAL REPORT

“The Congress shall have Power... To promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries.”

—CONSTITUTION OF THE UNITED STATES, [ARTICLE 1, SECTION 8]

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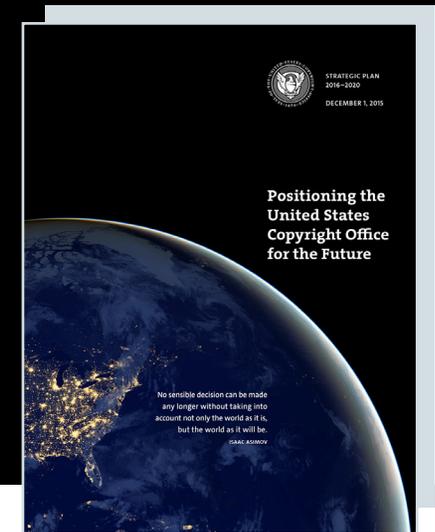
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UNITED STATES COPYRIGHT OFFICE HIGHLIGHTS



“Today it is impossible to separate copyright law from the fabric of everyday life.”

— 2016–2020 COPYRIGHT OFFICE STRATEGIC PLAN



MISSION STATEMENT

The United States Copyright Office 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 copyright law and policy.

The United States Copyright Office administers the nation's copyright laws for the advancement of the public good and the benefit of authors and users of creative works. The Office is part of the Library of Congress and is headed by a Register of Copyrights. Maria A. Pallante, the twelfth Register of Copyrights, led the Office during the fiscal year covered in this annual report.

One of the Copyright Office's most important accomplishments in fiscal 2016 was publication of a new strategic plan, *Positioning the United States Copyright Office for the Future*, for the years 2016 through 2020. The plan reflects four years of internal evaluations and consultations with the copyright community, including public inquiries, special projects, published reports, and congressional hearings.

The resulting strategic plan identifies six goals for the Copyright Office:

1. administering U.S. copyright laws effectively, efficiently, and skillfully;
2. making copyright records easily searchable and widely available;
3. providing impartial assistance to Congress, executive branch agencies, and the courts on questions of copyright law and policy;
4. delivering outstanding information services, educational programs, and publications;
5. building a robust and flexible information technology enterprise; and
6. recruiting a diverse pool of legal, technology, and business experts.

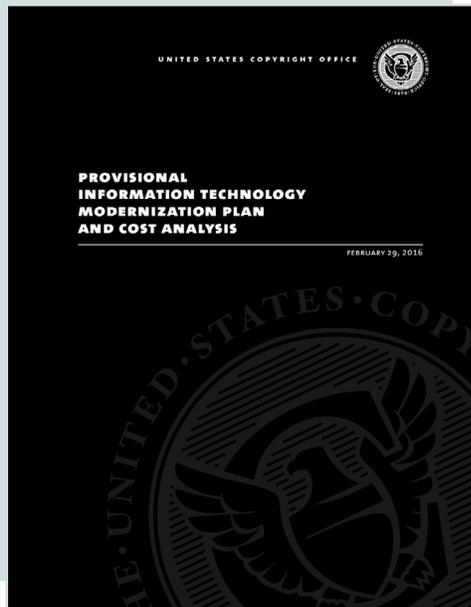
HIGHLIGHTS

The new strategic plan took effect on December 1, 2015. The same month, the Register of Copyrights testified before the House Administration Committee about improvements to the Copyright Office's information technology systems required to meet the demands of the digital age. Shortly thereafter, on February 29, 2016, the Office released its *Provisional Information Technology Modernization Plan and Cost Analysis*, meant to be considered in conjunction with the new strategic plan.

Guided by its strategic goals and mission, the Copyright Office continued in fiscal 2016 to support the ongoing congressional review of U.S. copyright law. The Office initiated three new policy studies at the request of members of Congress. The studies include an examination of the role of copyrighted software in everyday products; an assessment of the operation of the anticircumvention



Maria Strong, deputy director of policy and international affairs and Scott Martin, deputy general counsel of Paramount Pictures Corporation speak at a symposium on moral rights.



provisions of section 1201 of the copyright law; and evaluation of the notice-and-takedown and safe-harbor provisions in section 512 of the copyright law. For each of these studies, the Office held roundtables in May 2016 and invited written public comments.

In addition, the Copyright Office cohosted a daylong symposium with the George Mason University Law School to hear from authors, scholars, and copyright practitioners on the issue of moral rights. The term "moral rights" refers to noneconomic rights considered personal to an author, including the right to be credited as the author of one's work and the right to prevent prejudicial distortions of the work. The symposium served as background for the initiation of a formal moral rights study to begin in fiscal 17.

Although not a full-fledged study, the Copyright Office's effort to update the library exceptions contained in section 108 of the copyright law continued in 2016. The Office met with library and archive stakeholders to solicit their views as the Office develops legislative recommendations for Congress.

At the request of a member of Congress, the Copyright Office also published a report in February 2016 based on a multiyear study of the "making available" right in the United States. The report describes how U.S. copyright law provides copyright owners with the exclusive right to authorize transmission of their works through interactive platforms that enable on-demand access by public users.

Copyright Office lawyers continued in fiscal 2016 to provide critical law and policy services to constituencies across the federal government, including domestic and international policy analysis, litigation support, assistance to courts and executive branch agencies, and participation in U.S. delegations to international meetings.

The Copyright Office processed more than **469,000 claims for registration** in fiscal 2016 and recorded nearly **11,000 documents** containing titles of **more than 197,000 works**. Together, the Office's registration and recordation systems constitute the world's largest compilation of copyrighted works and copyright ownership information, encompassing an unparalleled record of American cultural heritage.

HIGHLIGHTS

The Copyright Office also continued during the fiscal year to administer statutory licenses in the copyright law, collecting, managing, and dispersing royalty fees paid by cable and satellite systems and providers of digital audio recording technology. The Office collected almost **\$242 million in royalty fees** and distributed **\$208.8 million from prior years** to copyright owners whose works were used under these licenses.

The Copyright Office processed **367 notices terminating transfers of copyrights** made in the 1970s, most of which pertained to musical works. In addition, Office staff answered **more than 193,600 inquiries** by phone, email, and regular mail; retrieved and copied thousands of copyright deposit records for parties involved in litigation; and assisted nearly **2,000 in-person visitors**.

In all its work, the Copyright Office promoted and sustained the copyright system as set forth in the law and regulations of the federal government. As in recent fiscal years, Office staff continued to provide exceptional public service in fiscal 2016 despite staffing shortfalls and budgetary constraints.

Copyright Law and Policy

The Copyright Office continued in fiscal 2016 to assist the comprehensive review of the nation's copyright laws by Congress. At the request of members of Congress, the Office initiated three policy studies in fiscal 2016 in support of the copyright law review and began discussion of the treatment of authors' moral rights in U.S. law. It also published a report about the "making available" right for copyright holders in the digital age and continued its consideration of section 108 of the Copyright Act, mass digitization, and visual works. In addition, the Register of Copyrights testified before Congress about Office operations.

STRATEGIC GOAL

The Copyright Office provides impartial expert assistance to Congress, executive branch agencies, and the courts on questions of law and policy.

Software in Everyday Products Study

At the request of the Senate Judiciary Committee, the Office initiated a study of the relationship between copyright law and copyrighted software embedded in consumer products such as cars, refrigerators, thermostats, and other items. The Senate Judiciary Committee sought to assess the need for legislative

changes to clarify the right of consumers to make legitimate use of works containing copyrighted software, including for repair, security research, and resale. The Office held roundtable hearings in Washington, DC, and San Francisco in fiscal 2016 and reviewed thirty-four public comments. The study was scheduled to be published in December 2016.



The Copyright Office hosted a public roundtable in May 2016 to discuss with consumer groups and organizations different issues regarding software-enabled consumer products.

HIGHLIGHTS

Section 1201 Study

In another study, the Copyright Office is assessing the operation of section 1201, added to the copyright law by the Digital Millennium Copyright Act. Enacted in 1998, this provision prohibits circumvention of technological measures that control access to copyrighted works and the trafficking of technology services that facilitate circumvention. It also establishes a triennial rulemaking process through which the Librarian of Congress, upon the recommendation of the Register of Copyrights, can grant limited exceptions to the prohibition against circumventing access controls. Recent rulemakings have highlighted issues concerning the effectiveness and operation of section 1201, including the triennial rulemaking process itself. The Office held roundtable hearings in Washington, DC, and San Francisco in fiscal 2016 and reviewed 144 public comments.

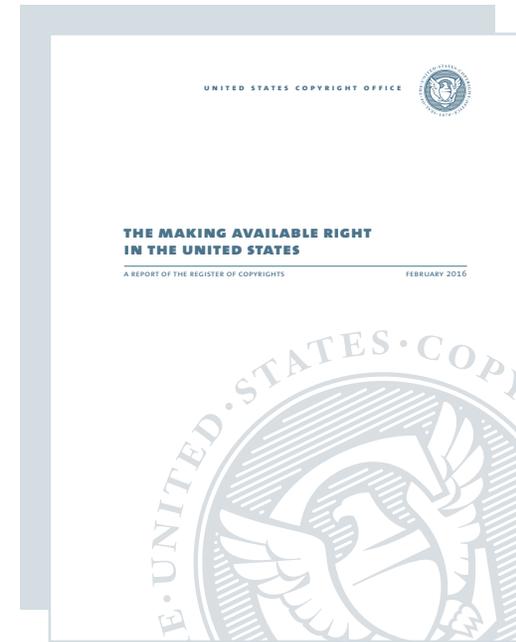
Section 512 Study

The Copyright Office is studying the notice-and-takedown system and safe-harbor provisions of section 512, also added to the copyright law by the Digital Millennium Copyright Act. Section 512 limits the liability

of Internet service providers when users of services post or share materials that infringe copyrights, so long as the service providers comply with certain requirements, including expeditiously removing or disabling access to infringing material once they are notified of its presence. The Office held roundtable hearings in Washington, DC, and San Francisco in fiscal 2016 and reviewed nearly 93,000 public comments.

Moral Rights

In fiscal 2016, the Copyright Office considered how U.S. law treats authors' moral rights, by cohosting a daylong symposium with George Mason University Law School in April 2016. Moral rights refer to certain noneconomic rights considered personal to an author, including the right to be credited as the author of one's work and to prevent prejudicial distortions of it. These rights have a long history in international copyright law. The symposium brought together twenty-six authors, scholars, and copyright practitioners to explore the scope and application of these rights in the United States. The Office anticipates initiating a formal study on moral rights in fiscal 2017.



Making Available Report

The Copyright Office published *The Making Available Right in the United States* in February 2016. It analyzes how U.S. law recognizes and protects the “making available” and “communication to the public” rights for copyright holders in the digital age. Two World Intellectual Property Organization (WIPO) treaties to which the United States is a party require member states, including the United States, to recognize the rights of making available and communication to the public in their national laws. Specifically, the treaties oblige member states to give authors of works, producers of sound recordings, and performers whose performances are fixed in sound recordings the exclusive right to authorize the transmission of their works and sound recordings, including through online interactive platforms.



The Office held public roundtable hearings on the Section 1201 study in Washington, DC, and San Francisco in fiscal 2016.

HIGHLIGHTS

The Office's report, undertaken at the request of Congress, details how U.S. copyright law provides such owners with the exclusive right to authorize transmission of their works through interactive platforms that enable on-demand access for public users.

Section 108

The Copyright Office continued to consider potential revisions to section 108 of the copyright law in fiscal 2016. That provision sets forth exceptions to the law to permit libraries and archives to make and distribute copies of copyrighted materials in their collections under certain conditions without obtaining permission from copyright owners. The exceptions are meant to help preserve works and ensure their availability over time. Enacted in 1976, section 108 has become outdated, especially with the rise of digital media and technologies. The Office has participated in major discussions about changes to section 108 since 2005. In fiscal 2016, it held thirty-eight meetings with interested parties to assess their concerns and suggestions as the Office develops legislative recommendations for Congress.

Mass Digitization

The Copyright Office continued in fiscal 2016 to review public comments on its mass digitization proposal. In *Orphan Works and Mass Digitization*, published in fiscal 2015, the Office proposed a limited pilot program to allow the United States to gain experience with extended collective licensing, a practice in use elsewhere in the world, and it invited public comments to inform the drafting of legislation to establish such a pilot program. Designed to assess best practices for supporting mass digitization projects while taking into account the interests and concerns of copyright owners, the pilot program would enable users to digitize and provide

access to certain works for research and educational purposes under conditions to be agreed on by rights holders and user representatives.

Visual Works

The Copyright Office considered public comments and next steps in its study of visual works, initiated in fiscal 2015. The study is reviewing how photographs, graphic artworks, illustrations, and other visual works are sold, purchased, and licensed under the Copyright Act and how copyrights to these works are registered and enforced. Seeking to build on its longstanding policy interest in copyright in visual works, the Office is especially interested in the current marketplace for such works and obstacles facing authors, licensees, and owner representatives in the digital age.

Copyright Office Operations

The Register of Copyrights testified on December 2, 2015, at a House Administration Committee hearing titled "Improving Customer Service for the Copyright Community." The hearing explored improvements to Copyright Office and Library of Congress information technology systems needed to provide services to digital-age copyright stakeholders. The Register also testified before the House Appropriations Committee's Subcommittee on the Legislative Branch on March 2, 2016, about modernizing the Office's information technology systems. Also in fiscal 2016, members of Congress introduced a bill to establish the Copyright Office as an independent agency in the legislative branch. No further action was taken on the proposal during the fiscal year.



Register of Copyrights, Maria Pallante testifies at a House Administration Committee hearing titled "Improving Customer Service for the Copyright Community."

Trade and Foreign Relations

Lawyers in the Copyright Office's policy and international affairs group are experts in foreign copyright law and the treaty obligations of the United States. They participate regularly in conferences sponsored by the World Intellectual Property Organization (WIPO), and they serve on U.S. government delegations for bilateral and regional trade and copyright treaty negotiations between the United States and other countries. When they assist the efforts of executive branch agencies on questions of international copyright law and policy, they fulfill an important statutory responsibility of the Office.

With delegates from other U.S. government agencies, Copyright Office lawyers attended WIPO meetings in Geneva to confer about copyright protection for broadcasting organizations and for traditional knowledge and exceptions to national copyright laws to permit libraries, archives, and educational institutions to carry out their missions.

With WIPO, the Copyright Office hosted the International Copyright Institute (ICI) in June 2016. A weeklong symposium, the ICI is one of the Office's premier training programs. Officials from twenty-two developing countries traveled to Washington, DC, to participate in discussions about copyright in the digital age with three dozen experts from executive branch agencies, the courts, the private sector, and academia.

The Copyright Office continued to assist the Office of the United States Trade Representative (USTR) and other executive branch agencies in fiscal 2016 by serving on official delegations and negotiating teams for the proposed Trans-Pacific Partnership Agreement (TPP) and the Transatlantic Trade and Investment Partnership.

Under the auspices of the USTR, Copyright Office lawyers also contributed to the annual U.S. interagency review of the adequacy and effectiveness of intellectual property protection and enforcement in other countries.



Associate Register of Copyrights and Director of Policy and International Affairs Karyn Temple Claggett welcomes representatives to the weeklong International Copyright Institute symposium.

Office lawyers, working with interagency teams, also participated in bilateral negotiations and consultations with more than seventy countries.

In addition, as copyright subject-matter experts supporting the USTR, the Office commented on twenty-six World Trade Organization trade policy reviews and two accessions.

Litigation Activities

The Copyright Office assisted the U.S. Department of Justice on several important court cases in fiscal 2016. The Office's general counsel and staff contributed to an amicus brief the department filed on behalf of the U.S. government before the U.S. Supreme Court in September 2016 in *Star Athletica, L.L.C. v. Varsity Brands, Inc.* The litigation involves the copyright doctrine of conceptual separability as applied to useful articles, specifically cheerleading uniforms. The plaintiff, who designs and manufactures cheerleading apparel, alleged that the defendant infringed five registered designs. The defendant argued that the designs were not copyrightable because it was not possible to either physically or conceptually sever the plaintiff's designs from the utilitarian function of the resulting cheerleading uniforms. The U.S. government's brief supported the plaintiff, explaining, among other things, that the Office has for decades accepted registration of graphic designs used on clothing. In March 2017, the Supreme Court held that the plaintiff's designs were copyrightable; the opinion generally reflected the government's position in the case.

The Copyright Office also assisted the Justice Department in filing an amicus brief in March 2016 before the Supreme Court in *Kirtsaeng v. John Wiley and Sons, Inc.* Following its 2013 decision holding that the first-sale doctrine applies to copies of copyrighted works lawfully made abroad, the Supreme Court considered whether the district court erred in evaluating a request for attorney's fees by Kirtsaeng, the prevailing party. The Court relied on the government's brief in holding that a district court should give substantial weight to the objective reasonableness of the losing party's position, while still taking into account all other circumstances relevant to granting fees. The Court further held that the decision of the U.S. Court of Appeals for the Second Circuit, which had affirmed the district court ruling, went

HIGHLIGHTS

too far in suggesting that the reasonableness of a losing party's legal positions could give rise to a presumption against granting fees. The Court remanded the case for reconsideration by the district court.

The Copyright Office was also involved in litigation matters in other ways in fiscal 2016. Pursuant to section 411(b), the Office responded to multiple requests from district courts to provide advice about whether inaccurate information on a certificate of registration, if known, would have caused the Register of Copyrights to refuse registration.

Further, the Copyright Office has itself been a party to litigation brought by individuals regarding decisions to deny registration to works, receipt of notices of termination, and the rulemaking under section 1201 of the Digital Millennium Copyright Act. In these cases, the Office has coordinated closely with the Department of Justice to defend the Office's actions.

Administrative Law

The Copyright Office carries out an administrative law practice pursuant to its technical and substantive authority under the Copyright Act and other provisions of Title 17 of the *United States Code*. Among other duties, the Register of Copyrights conducts rulemakings, implements regulations, and publishes practices related to copyright registration, documents recordation, and administration of statutory licenses. The following regulatory efforts took place in fiscal 2016.

The Copyright Office completed the sixth triennial rulemaking proceeding under section 1201 of the Digital Millennium Copyright Act (DMCA). Section 1201 provides that, upon the recommendation of the Register of Copyrights, the Librarian of Congress can designate certain classes of works as exempt from the prohibition against circumventing technological measures that control access to copyrighted works. The Office held public

STRATEGIC GOAL

The Copyright Office administers the copyright laws of the United States effectively, efficiently, and skillfully for the benefit of authors and the public.

hearings and considered nearly forty thousand public comments to prepare the Register's recommendation that twenty-two types of uses be exempted.

The Copyright Office published a notice of proposed rulemaking in May 2016 seeking comments about reducing the fee charged to online service providers for designating agents to receive notices of claimed infringement. Under the DMCA, the Office is required to maintain a current directory of such agents. Since enactment of the DMCA in 1998, the Office has maintained a paper-based directory requiring staff to review, scan, and post paper forms submitted by service providers. In anticipation of implementing a new electronic system for designating agents in fiscal 2017, the Office proposed to reduce the fee to reflect the greater efficiency of the electronic system for the Office. As part of the rulemaking, designated agents will be required to ensure that this information is up-to-date by amending or resubmitting a designation every three years.

In September 2016, the Copyright Office published a notice of proposed rulemaking to allow authors, claimants, or their authorized representatives to replace or remove personally identifying information from the Office's online registration catalog. The rule would allow parties, for a fee, to request replacement or removal of information the Office collects on registration applications, such as names, home addresses, and personal phone numbers. The information would be removed from the Office's Internet-accessible public catalog but retained in the Office's offline records as required by law. The rule also proposes to codify an existing practice that removes, free of charge, extraneous personally identifying information

that applicants erroneously include on registration applications even though the Office has not requested it, such as driver's license numbers, social security numbers, banking information, and credit card information.

Also in fiscal 2016, the Copyright Office published a notice of inquiry soliciting comments related to the expansion of mandatory deposit to include online-only works, or electronic works that are not available in physical format. Until 2010, Office regulations exempted online-only works from mandatory deposit. That year, the Office adopted an interim rule creating an exception to the exemption to allow the Office to acquire online-only serials. The Library of Congress would now like to extend the interim rule to apply to online-only books and sound recordings. In response, the Office invited feedback from parties affected by mandatory deposit of online-only serials and from parties that would be affected by extending mandatory deposit to online-only books and sound recordings.

The Register of Copyrights issued a legal opinion in fiscal 2016 on a question referred by the Copyright Royalty Judges. The judges administer proceedings to adjust royalty rates and distribute royalty payments for various copyright statutory licenses. When they encounter a novel material question of substantive law during a proceeding, they must refer the question to the Register of Copyrights for resolution. In a proceeding to determine royalty rates for webcasting of digital performance of sound recordings and the making of related ephemeral recordings, the Register considered the authority of the judges to set rates and terms that distinguish among different categories of licensors.

REGISTRATION AND RECORDATION

The Copyright Office registers creative works for the benefit of owners and users of copyrighted works. It does so under provisions of U.S. copyright law and according to Office regulations.

The Copyright Office's Registration Program consists of the Literary, Performing Arts, and Visual Arts Divisions. Staff in each division examine creative works of authorship to determine whether they are copyrightable and whether claimants have complied with copyright law and regulations.¹

The Registration Program received **533,606 claims** in fiscal 2016 and processed 469,471². The year started with close to 249,000 open claims on hand in the online registration system; more than 33,000 of those awaited additional information from applicants before staff could finish examining them. The year ended with more than 316,000 claims on hand in the system, nearly 29,000 of which required more information from applicants.

Some claims had to be examined outside the online system because the system is not capable of processing certain types of claims, such as renewals and certain group registrations. Fiscal 2016 began with just over 1,800 such claims awaiting examination and cataloging. At year's end, some 2,300 claims awaited examination and cataloging.

Refusals to Register

The Copyright Office is required to refuse to register a claim to copyright when it determines that the material submitted does not constitute copyrightable subject matter or for other legal or procedural reasons. In fiscal 2016, the Office rejected 12,656 claims.

Appeals

When a claim for registration has been rejected by the Copyright Office, the applicant can seek two levels of appeal. A first request for reconsideration will be reviewed by an attorney-advisor in the Registration

Program. If the refusal is upheld, the applicant can submit a second request for reconsideration to the Copyright Office Review Board, which is made up of the Register of Copyrights and the Office's general counsel, or their designees, and a third person designated by the Register.



Rosemary Brawner, senior information specialist of the Public Information Office, gives a tour of the Copyright Office and its workflow.

In fiscal 2016, the Copyright Office received and responded to 320 first requests for reconsideration, representing 436 claims. The Registration Program sustained the rejection for 417 of these claims and reversed and approved 19 claims. At year's end, there were 157 first requests for reconsideration awaiting review.

Acquisition of Copyrighted Works

Through copyright registration and the mandatory deposit provision of the copyright law, the Copyright Office acquires published copyrighted works that the Library of Congress can select for its collections. Mandatory deposit requires owners of copyrightable works published in the United States to submit two copies of the best editions of works to the Office within three months of publication for the use of the Library. The Office forwarded **more than 635,000 copies of works** with a net value of **\$35.6 million** to the Library's collections in fiscal 2016; more than 380,000 of these copies were received from publishers through mandatory deposit.

Document Recordation

Each year, authors, heirs, copyright owners, and others submit thousands of documents to the Copyright Office for public recordation. The documents contain information about copyright assignments, licenses, and other transactions related to chain of title. In fiscal 2016, the Office recorded **10,865 documents** containing titles of **more than 197,000 works**.

¹ Under the law, the Office also registers claims in mask works and vessel designs. In fiscal 2016, the Office registered twenty-five mask works and 16 vessel designs.

² The total was corrected due to a reporting error.

STATUTORY LICENSING

The Copyright Office administers copyright statutory licenses, several of which require it to manage and disperse private monies. The Office's Licensing Division collects royalty fees from cable operators, satellite carriers, and importers and manufacturers of digital audio recording devices, investing the fees in interest-bearing securities with the U.S. Treasury. The fees, less reasonable operating costs, are distributed to copyright owners. The division also handles other matters related to administration of the statutory licenses.

Since 2005, the Copyright Royalty Board, an independent and separate unit of the Library of Congress, has set royalty rates and determined terms and conditions for use of the licenses. The board also rules on royalty allocations among copyright owners.

In fiscal 2016, the Copyright Office collected almost **\$242 million** in royalties from users of copyright statutory licenses. The bulk of the fees collected came from cable television companies, which rely on one of the statutory licenses to clear rights to content they

retransmit to viewers. Satellite carriers and importers and manufacturers of digital recording devices submitted the remainder.

In accordance with rulings of the Copyright Royalty Board, the Copyright Office made four separate distributions in fiscal 2016 totaling \$208.8 million collected in previous years.

The law requires the Copyright Office to compile and audit financial statements for royalty fees on a calendar-year basis. The total royalty receipts and distributions shown in calendar-year statements vary from fiscal-year totals. The appendices to this report include calendar-year 2015 financial statements; calendar-year 2016 statements will appear in the fiscal 2017 report.

STRATEGIC GOAL

The Copyright Office seeks to make copyright records easily searchable and widely available to authors, entrepreneurs, and all who need them.

Online Service Provider Designations of Agent

Congress amended the copyright law in 1998 to limit potential liability of service providers for copyright infringement for certain activities carried out on their systems or networks. A service provider must file a statement identifying an agent to receive notification of claims of infringement and also post the information on its publicly accessible website. The Copyright Office processes these online service provider designations of agents and makes them available on its website. In fiscal 2016, the Office posted 2,282 agent designations in the directory.

Copyright Records

The Copyright Office continued in fiscal 2016 to improve access to copyright registrations and other copyright records.

Public Access to Historical Records

The Copyright Office continued its multiyear project to make historical copyright records created between 1870 and 1977 accessible online. Post-1978 records are already searchable on the Office's website. Historical copyright records serve as valuable documentation for owners and users of copyrighted works and are an important piece of cultural history, providing a timeline of the nation's creativity.



Tracie Coleman, head of the Licensing Information Section, at right, explains new policy and procedures at a meeting with her colleagues.

The Copyright Office awarded a contract to test the potential to capture optical character recognition from digital images of historical handwritten copyright records. The Office completed digitization of 35.8 million pre-1978 records from its card catalog in fiscal 2015. In fiscal 2016, the Office applied optical character recognition to **7.8 million records** from 1971 to 1977. It also awarded a contract to test the merging of those records with post-1978 digital records.

Reengineering of Document Recordation

The Copyright Office continued in fiscal 2016 to reengineer its document recordation system. The Office migrated recordation-related records from legacy computer systems to a more stable platform and achieved other steps toward modernization. It continues, however, to receive original documents on paper and does not yet have an electronic portal for submission of documents. In fiscal 2016, following the award of a contract to support multiyear planning, the Office completed a five-year modernization plan and an analysis of requirements for a modern recordation system. In addition, it is documenting the recordation system as it currently exists.

Records Searches and Certifications

The public can access many records the Copyright Office maintains through the Office’s on-site reading room. In addition, for a fee, staff will search the Office’s public records and write reports about the findings; prepare copies of public records for use in litigation or for other authorized purposes; provide copies of registration certificates; and certify Office records, among other records-related services. In fiscal 2016, the Office improved its customer service in this area, reducing work in progress by 60 percent and significantly decreasing the time the public waits to receive responses to correspondence.

STRATEGIC GOAL

The Copyright Office delivers outstanding information services, educational programs, authoritative publications, and other expert resources to individuals, businesses, and other organizations.

INFORMATION AND EDUCATION

The Copyright Office offered authoritative information about copyright and the Office’s services and practices on its website and through direct exchanges with members of the copyright community.

Compendium of U.S. Copyright Office Practices

The Copyright Office published the third edition of the *Compendium of U.S. Copyright Office Practices* in fiscal 2015. It is the administrative manual of the Office regarding its statutory duties under the Copyright Act, and it serves as a guidebook for authors, copyright owners, practitioners, the courts, and others. In fiscal 2016, the *Compendium* was cited in decisions by the Second and Ninth Circuit Courts of Appeal and in thirteen decisions by the district courts.

During the fiscal year, staff also compiled revisions and updates to the *Compendium* to be released in fiscal 2017.

Fair Use Index

The Copyright Office published its *Fair Use Index* on its website in fiscal 2015. It summarizes major fair use decisions by federal courts and is searchable by court and subject matter. It is intended to help the public understand how courts have applied the fair use doctrine to particular categories of works or types of uses. To date, more than 180 fair use decisions have been summarized, spanning every appellate jurisdiction and many categories of interest, from music to digitization to parody. In fiscal 2016, the index received tens of thousands of page views, and thousands of the Office’s case summaries were downloaded.



Whitney Levandusky, attorney-advisor in the Office of Public Information and Education, gives a talk about Copyright issues in social media. The Office held several “Copyright Talks” events on a variety of topics throughout the year.

Copyright Office Website

Through the website, the public can learn about the copyright law and the Copyright Office’s services and search copyright records. The website is also the portal to the electronic system through which users can register claims and upload copies of their works. In fiscal 2016, Office information technology staff continued to improve the architecture of the website, automated the posting of *Federal Register* announcements on the site, and streamlined the process for submitting public comments electronically. In fiscal 2016, the website had about 51 million page views.

Public Information

The Copyright Office accommodated **193,654 requests** from the public for copyright information in fiscal 2016. Requests came by email, regular mail, and telephone, and 1,997 individuals visited the Office.

The Copyright Office distributed forty one issues of NewsNet, an electronic news service covering legislative and regulatory developments and general Office news, to more than 23,000 subscribers in fiscal 2016.

Outreach

The Register of Copyrights made presentations and served as the keynote speaker at multiple domestic and international events and symposia. She and other Copyright Office lawyers also spoke at law schools and annual law and trade association meetings.

Among her presentations, the Register delivered the plenary address, “The Copyright Office and the Future of Copyright,” at the Twenty-fourth Annual International Intellectual Property Law and Policy Conference at Fordham University Law School on March 31, 2016. On July 22, 2016, she presented the Distinguished Roger L. Shidler Lecture, “From Monkey Selfies to Open Source: The Essential Interplay of Creative Culture, Technology, Copyright Office Practice, and the Law,” at the University of Washington Law School.

STRATEGIC GOAL

The Copyright Office will build a robust and flexible technology enterprise that is dedicated to the current and future needs of a modern copyright agency.

Senior policy and legal staff spoke at conferences nationwide on topics including the congressional copyright law review; music licensing; copyright small claims; and copyright as it relates to visual arts, new technologies, international film and television distribution, and the entertainment and sports industries.

Copyright Office staff welcomed visitors from Brazil, Canada, China, Germany, India, Japan, Korea, Mexico, Moldova, Sweden, and the United Kingdom. Office lawyers also traveled to meet with international copyright officials and participate in conferences in Australia, Belgium, Italy, and Switzerland.

Technology Modernization

The Copyright Office released its *Provisional Information Technology Modernization Plan and Cost Analysis* in February 2016, prepared at the request of the House Committee on Appropriations. The plan builds on several years of deliberative process about how best to integrate the copyright law, business requirements, and information technology to fulfill the mission of the Office. Immediately after release of the plan, at the direction of the House Appropriations Committee, the Office invited public comments about a strategy to fund the plan’s implementation. In addition, the Office discussed costs and implementation with the Library of Congress chief information officer and chief financial officer. In May 2016, the Office proposed a funding strategy and implementation timeline to the House Appropriations Committee.



Aurelia Schultz, counsel in the Office of Policy and International Affairs, welcomes members of the Korea Institute of Intellectual Property. In fiscal 2016, the Copyright Office hosted members from many different countries looking to learn more about the U.S. Copyright Office policies and procedures.

While planning for comprehensive modernization, the Copyright Office pursued ongoing projects to improve existing information technology. It made progress toward a new electronic system for designating agents to receive notices of claimed infringement under the Digital Millennium Copyright Act. And it improved the performance and functionality of its electronic copyright registration system. In addition, it worked to enhance the availability of copyright records through its public catalog, and it continued to support legacy systems that remain needed while modernization evolves.

Staffing

The Copyright Office welcomed a new general counsel to its leadership team in fiscal 2016. Sarang Damle succeeded Jacqueline Charlesworth as general counsel after serving as deputy general counsel and special advisor to the general counsel. Jody Harry joined the leadership team as the Office's first chief financial officer. She arrived at the office with significant federal government experience in handling financial matters.

The Copyright Office hired twenty-three copyright examiners in fiscal 2016, following the hiring of thirteen examiners in fiscal 2015. For five years before that, budget constraints had prevented the Office from hiring new examiners to replace those who retired or resigned, leading to a substantial reduction in experienced examiners to process copyright applications. The newly hired staff will help to rebuild the ranks of examiners but will not fully alleviate the shortage in staff. New examiners received extensive classroom training in fiscal 2016 on the copyright law and worked one-on-one with experienced examiners to learn Office procedures, practices, and workflow.

STRATEGIC GOAL

The Copyright Office seeks to recruit a diverse pool of legal, technology, and business experts, including a dedicated career staff, noncareer professionals, contractors, and advisory committees.

Steven Wilf was named the 2016–17 Abraham L. Kaminstein Scholar in Residence. The Kaminstein Program allows the Register to bring leading academics to the Copyright Office to work on mutually beneficial projects. Wilf is the Anthony J. Smits Professor of Global Commerce and director of the Intellectual Property and Information Governance Program at the University of Connecticut Law School. While at the Office, Wilf will study the Office's history, especially as it relates to mandatory deposit, registration deposit, best edition, and collection building.

Emma Raviv began a two-year appointment in fiscal 2016 as a Barbara A. Ringer Copyright Honors Program fellow. The program brings developing lawyers of exceptional ability to the Copyright Office to work closely with senior Office legal staff.

Staff Training and Education

Through the Copyright Academy, a staff training program, the Copyright Office offered a fifteen-week copyright law class for newly hired examiners in the Registration Program. Another copyright law class was tailored for staff in the Public Information Office, who answer inquiries about copyright law, copyright registration, and the practices and services of the Office. Taught by legal staff in the Registration Program, the class helped to ensure that staff in the Public Information Office and the Registration Program have a common understanding of the *Compendium of U.S. Copyright Office Practices*.

The Copyright Office continued its “Copyright Matters” lecture series in fiscal 2016 with a celebration in April 2016 of World Intellectual Property Day. Cohosted with the Copyright Alliance and held at the Library of Congress, the program featured remarks by Representative Bob Goodlatte, chair of the House Judiciary Committee, and included a panel discussion exploring creative collaborations made possible by digital technology, innovative business models, and fair compensation for creators.

The Copyright Office also continued its series of afternoon programs to expand the knowledge of staff about copyright and the Office's initiatives. Topics featured included social media and popular culture and copyright.



Twenty-three copyright examiners were hired in fiscal 2016.

APPENDICES

\$29.6

receipts from
copyright
registration

(in millions)

\$2.6

receipts from
document
recordation

(in millions)

\$242

royalty fees
collected

(in millions)

Funding

About 60 percent of the Copyright Office's annual budget comes from fees for services, collected by the Office on a partial cost recovery basis. Each year, Congress determines what portion of the Office's income it can spend. The Office receives the remainder of its funding from federal appropriations.

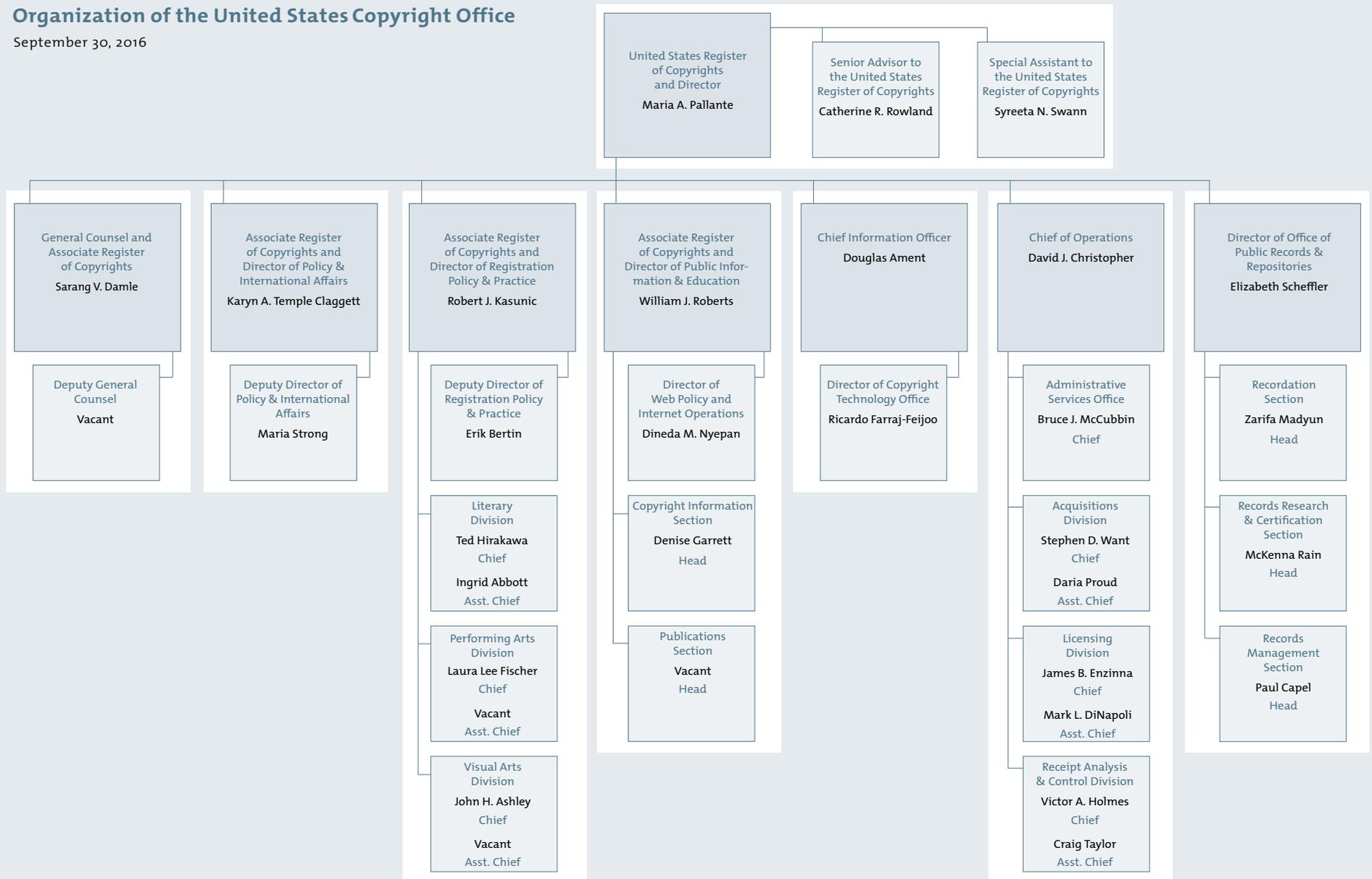
The Copyright Office's total basic appropriation for fiscal 2016 was \$51.9 million, which derived from two revenue sources: net appropriations from the U.S. Treasury in the amount of \$21.9 million and authority to spend user fees and prior-year reserves in the amount of \$30 million. The Office's Licensing Division was fully funded from user fees and withdrawals from royalty pools in the amount of \$5.4 million.



Jaakia Carrington-Brown, senior computer systems analyst, seated at left, works with Accounting Office staff members Maria Carter, seated at right, and LaShawne Stafford, standing.

Organization of the United States Copyright Office

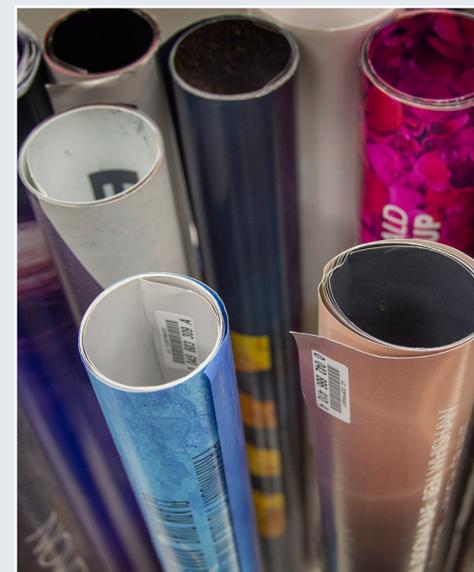
September 30, 2016



APPENDICES

Registrations, 1790–2016

Date	Total	Date	Total	Date	Total	Date	Total	Date	Total
1790–1869	150,000 ¹	1901	93,299	1933	139,361	1965	293,617	1996	550,422
1870	5,600	1902	93,891	1934	141,217	1966	286,866	1997	569,226
1871	12,688	1903	99,122	1935	144,439	1967	294,406	1998	558,645
1872	14,164	1904	104,431	1936	159,268	1968	303,451	1999	594,501
1873	15,352	1905	114,747	1937	156,930	1969	301,258	2000	515,612
1874	16,283	1906	118,799	1938	168,663	1970	316,466	2001	601,659
1875	16,194	1907	124,814	1939	175,450	1971	329,696	2002	521,041
1876	15,392	1908	120,657	1940	179,467	1972	344,574	2003	534,122
1877	16,082	1909	121,141	1941	180,647	1973	353,648	2004	661,469
1878	16,290	1910	109,309	1942	182,232	1974	372,832	2005	531,720
1879	18,528	1911	115,955	1943	160,789	1975	401,274	2006	520,906
1880	20,993	1912	121,824	1944	169,269	1976	410,969 ²	2007	526,378
1881	21,256	1913	120,413	1945	178,848	1976	108,762 ²	2008	232,907 ⁵
1882	23,141	1914	124,213	1946	202,144	1977	452,702	2009	382,086
1883	25,892	1915	116,276	1947	230,215	1978	331,942	2010	636,527
1884	27,727	1916	117,202	1948	238,121	1979	429,004	2011	670,044
1885	28,748	1917	112,561	1949	201,190	1980	464,743	2012	509,112
1886	31,638	1918	107,436	1950	210,564	1981	471,178	2013	496,599
1887	35,467	1919	113,771	1951	200,354	1982	468,149	2014	476,298
1888	38,907	1920	127,342	1952	203,705	1983	488,256	2015	443,823
1889	41,297	1921	136,765	1953	218,506	1984	502,628	2016	414,285 ⁶
1890	43,098	1922	140,734	1954	222,665	1985	540,081 ³	Total	37,301,178⁷
1891	49,197	1923	151,087	1955	224,732	1986	561,208 ³		
1892	54,741	1924	164,710	1956	224,908	1987	582,239 ³		
1893	58,957	1925	167,863	1957	225,807	1988	565,801		
1894	62,764	1926	180,179	1958	238,935	1989	619,543 ⁴		
1895	67,578	1927	186,856	1959	241,735	1990	643,602		
1896	72,482	1928	196,715	1960	243,926	1991	663,684		
1897	75,035	1929	164,666	1961	247,014	1992	606,253		
1898	75,634	1930	175,125	1962	254,776	1993	604,894		
1899	81,416	1931	167,107	1963	264,845	1994	530,332		
1900	95,573	1932	153,710	1964	278,987	1995	609,195		



Movie poster deposits that have been scanned and inventoried are awaiting transfer to a storage facility.

- 1 Estimated registrations made in the offices of the Clerks of the District Courts (Source: Pamphlet entitled *Records in the Copyright Office Deposited by the United States District Courts Covering the Period 1790–1870*, by Martin A. Roberts, Chief Assistant Librarian, Library of Congress, 1939).
- 2 Registrations made July 1, 1976, through September 30, 1976, reported separately owing to the statutory change making the fiscal years run from October 1 through September 30 instead of July 1 through June 30.
- 3 The totals for 1985–87 were corrected as of the fiscal 2004 annual report to include mask works registrations.
- 4 The total for 1989 was corrected as of the fiscal 2004 annual report to be consistent with the fiscal 1989 table of “Number of Registrations by Subject Matter.”
- 5 Implementation of reengineering resulted in a larger than normal number of claims in process, temporarily reducing the total claims completed and registered.
- 6 The total for 2016 was corrected to include vessel design registrations.
- 7 The total was corrected due to a reporting error.

APPENDICES

Number of Registrations by Subject Matter, Fiscal 2016

<i>Category of Material</i>	<i>Published</i>	<i>Unpublished</i>	<i>Total</i>
Nondramatic literary works:			
<i>Monographs and computer-related works</i>	117,803	50,975	168,778
Serials:			
<i>Serials (nongroup)</i>	33,866	-	33,866
<i>Group daily newspapers/newsletters</i>	2,745	-	2,745
<i>Group serials</i>	5,320	-	5,320
Total Literary Works	159,734	50,975	210,709
Works of the performing arts, including musical works, dramatic works, choreography and pantomimes, and motion pictures and filmstrips	45,989	29,334	75,323
Works of the visual arts, including two-dimensional works of fine and graphic art, sculptural works, technical drawings and models, photographs, cartographic works, commercial prints and labels, and works of applied arts	50,263	35,351	85,614
Sound recordings	14,474	27,970	42,444
Total Basic Registrations	270,460	143,630	414,090
Renewals	154		154
Mask work registrations	25		25
Vessel design registrations	16		16 ¹
Grand Total All Registrations			414,285¹
Preregistrations			875
Documents Recorded			10,865



The new copyright examiners hired in fiscal 2016 take part in a yearlong training program. In addition to extensive computer training, they learn about the review process in all registration divisions: Literary, Performing Arts, and Visual Arts.

¹ The totals were corrected due to a reporting error.

APPENDICES

Financial information published in this table is unaudited.

Fee Receipts and Interest, Fiscal 2016

<i>Fees</i>	<i>Receipts Recorded¹</i>
Copyright registration	\$27,547,080
Registration special handling/expedited services	\$2,020,865
Renewal registration	\$36,320
Mask works registration	\$2,605
Vessel design registration	\$4,500
Subtotal	\$29,611,370
<hr/>	
Recordation of documents	\$2,582,007
Licensing fees	\$2,446,420
Certifications	\$607,287
Recordation special handling/expedited services	\$594,679
Other services and fees	\$460,459
Preregistrations	\$137,060
Searches	\$34,817
Subtotal	\$6,862,729
<hr/>	
Total Receipts Recorded	\$36,474,099
<hr/>	
Refunds and uncollectible amounts	\$43,762
Investment earnings	\$11,946
Reconciling transactions ²	\$15,711
<hr/>	
Fee Receipts and Interest Applied to the Appropriation³	\$36,545,518



Maria Perez-Morales of the Public Information Office explains in Spanish how to register the copyright to a song during an American Folklife Center workshop on the Mexican corrido (tragic ballad).

- 1 "Receipts Recorded" are fee receipts entered into the Copyright Office's systems.
- 2 "Reconciling Transactions" include amounts pending association with an identified fee type and corrections.
- 3 "Fee Receipts and Interest Applied to the Appropriation" are income from fees and deposit account interest that were fully cleared and deposited to the Copyright Office appropriation account within the fiscal year.

Estimated Value of Transferred Materials used by the Library of Congress, Fiscal 2016

	<i>Registered works transferred</i>	<i>Nonregistered works transferred</i>	<i>Total works transferred</i>	<i>Average unit price</i>	<i>Value of works transferred</i>
Books^{1,2}	140,840	114,743	255,583		\$19,159,060
Hardbound	40,505	23,051	63,556	\$95.40	\$6,063,242
Softbound	79,141	13,898	93,039	\$44.12	\$4,104,881
eBooks (ProQuest)	21,194	19,958	41,152	\$5.18	\$213,167
eBooks (special relief) ⁵	0	57,836	57,836	\$151.77	\$8,777,770
Serials^{1,3}	68,898	261,709	330,607		\$12,597,512
Periodicals ⁴	68,874	215,706	284,580	\$53.55	\$10,667,481
Newspapers ¹	24	32,400	32,424	\$1.50	\$34,045
eSerials ⁵	0	13,603	13,603	\$139.38	\$1,895,986
Microforms	3,115	4,580	7,695		\$1,154,109
Microfilm	3,114	4,580	7,694	\$150.00	\$1,154,100
Microfiche	1	0	1	\$8.72	\$9
Motion pictures	7,277	6	7,283		\$1,620,074
Film—35mm/70mm/IMAX ^{®1}	51	6	57	\$13,420.00	\$764,940
Film—16mm	1	0	1	\$1,500.00	\$1,500
Videotape	7,225	0	7,225	\$118.15	\$853,634
CD/DVDs	28,286	758	29,044	\$25.00	\$726,100
Printed music	2,628	2,299	4,927	\$63.38	\$312,273
Maps	402	256	658	\$49.52	\$32,584
Prints, posters, photographs, and works of art	639	43	682	\$40.26	\$27,457
Total	252,085	384,394	636,479		\$35,629,169



Copyright acquisition specialist Lauren Fasceski handles a request from a librarian about a deposit.

- As of 2010, categories were changed to match format codes in the Copyright Office's eCO system. "Newspapers" and "Film-35mm/70mm/IMAX" that year showed substantially fewer works than in previous years where an arithmetical calculation was used. Books and serials showed an increase, partly due to counting published "Dramas" under "Books," as well as increased productivity in that year.
- 60 percent of "Books" are selected for the collections; 40 percent are used for the Library's exchange program.
- In the "Serials" category, 70 percent of periodicals and newspapers are selected for the collections; 100 percent of electronic serials are selected.
- The figure for nonregistered "Periodicals" includes: (1) an estimate based on average loads in hampers delivered to Library processing and custodial divisions and (2) a count of serials issues checked in through the Copyright Acquisitions Division. For the estimated portion, there was an earlier change in physical method of delivery, which decreased the average amount per hamper. The figures above reflect a reasonable estimate of current receipts per hamper and are periodically reviewed.
- Totals include certain e-books and e-serials for which online access is negotiated with publishers for the Library of Congress under section 407.

APPENDICES

Nonfee Information Services to Public, Fiscal 2016

Public Information and Education/Public Records and Repositories Direct Reference Services

In person	1,997
By correspondence	3,875
By email	30,671
By telephone	84,160
Total	120,703

Office of the General Counsel Direct Reference Services

By correspondence	229
By telephone	66
Total	295

Receipt Analysis and Control Division Services

By correspondence	2,463
By email	15,797
By telephone	4,780
Total	23,040

Licensing Division Direct Reference Services

By correspondence or email	1,564
By telephone	1,209
Total	2,773

Acquisition Division Direct Reference Services

By correspondence or email	25
By telephone	50
Total	75

eCO Service Help Desk

By email	15,296
By telephone	33,469
Total	48,765

Grand Total Direct Reference Services 195,651



Senior information specialist Clifton Knight helps with the registration of a musical composition.

APPENDICES

Financial information published in this table is unaudited, and numbers are rounded.

Financial Statement of Royalty Fees for Compulsory Licenses for Secondary Transmission by Cable Systems for Calendar Year 2015

Royalty fees deposited	\$214,664,436
Interest income	\$1,155,205
Gain on matured securities	\$20,318
Transfer in	\$1,746
Copyright Royalty Judges' filing fees	\$10,500
Statements of Account filing fees	\$1,454,285
Total	\$217,306,490

Less:

Licensing operating costs	\$1,698,683
Estimated licensing division operating costs	\$1,323,980
Statements of Account filing fees	\$1,454,285
Refunds issued	\$45,680
Cost of investments	\$211,967,923
Cost of initial investments	\$517,160
Copyright Royalty Judges' operating costs	\$61,945
Copyright Royalty Judges' filing fees	\$7,650
Transfers out	\$11,611
Total	\$217,088,917

Balance as of September 30, 2016	\$217,573
Plus: Face amount of securities due	\$212,033,403

Cable Royalty Fees for Calendar Year 2015 Available for Distribution by the Library of Congress	\$212,250,976
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Copyright Royalty Board Judges Jesse Feder, Suzanne Barnett, and David Strickler listen to testimony during a hearing.

APPENDICES

Financial information published in this table is unaudited, and numbers are rounded.

Financial Statement of Royalty Fees for Statutory Obligations for Distribution of Digital Audio Recording Equipment and Media for Calendar Year 2015

Royalty fees deposited	\$146,460
Interest income	\$139
Gain on matured securities	\$4
Total	\$146,603
<hr/>	
Less:	
Licensing operating costs	\$74,058
Copyright Royalty Judges' operating costs	\$69
Estimated Licensing Division operating costs	\$28,923
Distribution of fees	\$323
Total	\$103,373
<hr/>	
Balance as of September 30, 2016	\$43,230
<hr/>	
Audio Home Recording Act Royalty Fees for Calendar Year 2015 Available for Distribution by the Library of Congress	\$43,230



John Newton, head of the Licensing Examining Section, updates a licensing database.

APPENDICES

Financial information published in this table is unaudited, and numbers are rounded.

Financial Statement of Royalty Fees for Statutory Licenses for Secondary Transmission by Satellite Carriers for Calendar Year 2015

Royalty fees deposited	\$60,395,336
Interest income	\$324,298
Gain on matured securities	\$12,554
Statements of Account filing fees	\$4,350
Total	\$60,736,538
<hr/>	
Less:	
Licensing operating costs	\$32,890
Estimated licensing operating costs	\$34,020
Statements of Account filing fees	\$4,350
Cost of investments	\$60,493,635
Cost of initial investments	\$142,723
Copyright Royalty Judges' Operating Costs	\$24,261
Transfers out	\$300
Copyright Royalty Judges' Filing Fees	
Total	\$60,732,179
<hr/>	
Balance as of September 30, 2016	\$4,359
Plus: Face amount of securities due	\$60,509,871
<hr/>	
Satellite Carrier Royalty Fees for Calendar Year 2015 Available for Distribution by the Library of Congress	\$60,514,230



Lisa Oates, administrative specialist in the Licensing Division answers a question about licensing fees.

APPENDICES

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www.copyright.gov

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