

**Statement of Maria A. Pallante  
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**Before the**

**Subcommittee on Oversight  
Committee on House Administration  
United States House of Representatives**

**Library of Congress:  
Ensuring Continuity and Efficiency  
During Leadership Transitions**

**April 18, 2012**

Mr. Chairman, Ranking Member Lofgren, and Members of the Subcommittee:

Thank you for the opportunity to appear before you today. It is a tremendous privilege to serve as the Register of Copyrights at this point in time. The role of the Copyright Office in registering creative works and recording related information for the public has reached critical importance. At the same time, the legal framework by which authors create and disseminate their works—and libraries and members of the public obtain access to them—requires updating for the online environment.

When Dr. Billington appointed me to the position last year, I was honored by his trust in me and deeply appreciative of the opportunity to serve the Library, the Congress, the copyright community, and the public. I am joined at the Copyright Office by a talented staff, many of whom have specialized knowledge and training. I respect and admire their dedication to the nation and am proud to be their leader.

I also have tremendous respect for the position I hold and am aware of the legacies of those who have served as Register before me. My immediate predecessor, Marybeth Peters, retired on December 31, 2011, after directing the Office for sixteen years and serving on the staff for more than forty. Among numerous accomplishments, she converted the paper-based copyright registration system of the last century to a digital system. Her predecessor, Ralph Oman, was Register when the United States joined the Berne Convention for the Protection of Literary and Artistic Works. And I am fortunate to have known the incomparable Barbara Ringer, the Register who worked for decades with Congressman Robert Kastenmeier on revisions that have defined the past thirty-five years of copyright law, including the current functions of the Copyright Office. I mention the legacies of these public servants because studying them has helped me to assess the themes and responsibilities that will mark my own tenure.

***Overview***

Since my appointment in June, my colleagues and I have been extremely busy on two fronts: (1) meeting the immediate, day-to-day demands of the Office's public services and policy duties, and (2) evaluating the core operations of the Office in preparation for the future. We have done this despite significant budget constraints and understaffing, because we believe the Copyright Office must fulfill its statutory responsibilities to the national copyright system.

As part of fulfilling our duties, we have provided policy analysis to Members in the House and the Senate on a routine basis, on a wide variety of issues. We have published three major policy studies in the past eight months and convened a number of meetings and public roundtables to discuss legislative proposals and international developments. At the request of the Chairman of the House Judiciary Committee, I testified three times last year on issues related to the Internet.

We continue to work across the federal government as required by law, providing support to colleagues who work for the President on bilateral and multilateral developments, including trade relationships and negotiations at the World Intellectual Property Organization. We have organized two international trainings in the past year, hosting copyright office directors and other intellectual property experts from foreign countries. And we have spent significant time listening and speaking to diverse parts of the U.S. copyright community through meetings and events with bar associations, industry groups, and public interest organizations. For example, last month I addressed the members of the Association of American Publishers in New York, and last week I delivered the keynote address at a Bay Area symposium convened by the Berkeley Center for Law and Technology. Others on the staff have performed similar outreach.

On October 21, 2011, I released *Priorities and Special Projects of the U.S. Copyright Office*,<sup>1</sup> a comprehensive document that articulates the Office's statutory duties and the expectations of those who benefit from its services—not only creators and users of copyrightable content, but also the public at large. The document sets forth for the public a transparent description of our current policy work for the Congress, assistance to executive branch offices and agencies, implementation of the Library's strategic goals, regulatory practice, registration data, and funding. It also reflects our commitment to address complexities in the copyright system and prepare for future challenges.

The outcome of many of the projects will inform the Office's strategic plan for the next decade. In all, we have ten special committees working on issues that are pertinent to the future, on which hundreds of Copyright Office staff from across departments are serving. I want to underscore what this means at a staff level. In an environment where many staff are already doing more than their share, I have asked them to do even more. I have asked them to believe in and contribute to the future of the Office, and they have responded with enthusiasm and pride. I would also like to note that many of the projects will require a multi-year commitment and sustained funding for successful implementation. Others are entrepreneurial and could lead to innovative partnerships with the private sector.

In summary, my vision for the U.S. Copyright Office is to position it to be highly efficient and effective over the next several decades. To do this, we must: (1) attract and retain a skilled and experienced staff, particularly in law and information technology; (2) make technical improvements to the copyright registration and recordation systems, while updating the legal incentives for these services; (3) redesign both the presentation and usability of the public database of copyright information; (4) fill the gaps in copyright education and outreach through the education and training activities that are expected of the Office; and (5) continue to serve the Congress and departments in the executive branch through policy expertise and assistance, as required by Title 17.

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<sup>1</sup> See [www.copyright.gov/docs/priorities.pdf](http://www.copyright.gov/docs/priorities.pdf).

## Status, Observations, and Core Projects

The public services of the Office relate to four key areas and are the focus of my statement today. These are: (1) registering copyright claims in creative works of original authorship and publicly recording documents pertaining to copyrights; (2) providing information and records services; (3) administering the collection and distribution of royalties for certain statutory licenses; and (4) facilitating acquisitions for the Library's remarkable collection. I have summarized the status of each function below, including my observations and current plans.

### *Registration & Recordation*

The copyright registration and recordation systems constitute the largest database of copyrighted works and copyright ownership information in the world. Together, they offer the public a mint record of American authorship and information helpful to licensing and commerce. And they provide certain protections to authors of many genres, including books, motion pictures, software, musical compositions, sound recordings, photography, and fine art, as well as databases, websites, and other online works. That said, unlike the patent system, neither registration nor recordation is required as a condition of receiving copyright protection under the law. It is therefore necessary to review the legal incentives for registration periodically, and to analyze and properly calibrate the Office's fees for services. We are engaged in both activities at this time.

Very recently, the Office has seen increased awareness of the value of the public registration systems, including by foreign countries that have no experience offering such services. At the same time, there are many urgent and extremely complex questions that require attention. Thus my priorities include technical upgrades to electronic registration and creating a reengineering plan for the recordation system. More than eighty percent of registration claims are filed electronically today through the online registration system implemented by Register Peters. However, the system has many moving parts and, like all systems based on information technology, will require perpetual attention. In recent months, constituents who use the copyright registration system have made it clear to us that upgrades are necessary. Moreover, as a matter of law, the system must keep up with the next generation of digital authorship. As creative standards and practices for dissemination evolve over time, so too must the Copyright Office's systems and processes. On a related note, we are updating and rewriting the extremely complex and technical *Compendium of Copyright Office Practices* (which does not currently reflect the online world). This is the authority on which the staff, the public, and the courts rely.

Processing time will always be a core concern. The Office reached a significant milestone in fiscal 2011 by eliminating a backlog of claims and returning to a reasonable turn around time for the majority of claims. The Office ended the year with a workload of approximately 185,000 claims on hand, of which approximately half were awaiting further action from the claimants and half were awaiting Office action. Online claims in the Office's working queue are now, on average, processed within two to four months, depending on the complexity of the claim. It must be noted, however, that the registration system utilizes a number of legacy systems that allow for paper claims and, in some cases, claims filed in bulk by third-party agents. These are not easily accommodated by the electronic system, take much longer to process, and require attention.

### *Information and Records Services*

The Copyright Office's Information and Records Division serves as the institutional repository for registration deposits that are not selected for the Library of Congress's national collection, as well as the custodian of the Office's public records of copyright ownership. It provides information to the public about copyright law and copyright services and responds to hundreds of thousands of inquiries by phone, email and in-person visits.

A major challenge is how to make historical copyright records searchable and available online. These records—some 70 million in total—date from 1870 through 1977 and are indexed in multiple formats, such as bound volumes of original applications, card catalogs, published indexes, and hand-written ledger entries. Many are fragile and are not suitable for high-volume scanning, and early formats with notes written in pencil do not lend themselves to optical character recognition, which means they will require relatively expensive human keyboarding for metadata capture. To date, the Office has digitized more than seventeen million records from the card catalog, and could complete this portion of the digitization project no later than fiscal 2015 if funding remains available. This would be steady progress, but much work remains.

In addition, the Office is working on a combination of initiatives related to information, including analyses of how historic and current information is categorized and presented in the databases, better utilization of our website, and educational outreach and training.

### *Licensing*

The Copyright Office helps administer certain compulsory and statutory license provisions of the Copyright Act, which pertain to setting royalty rates and terms and determining the distribution of royalties to certain copyright owners. These licenses cover activities including secondary transmissions of radio and television stations by cable television systems and secondary transmissions of network and non-network stations by satellite carriers.

Since the beginning of fiscal 2011, approximately \$978 million in royalties covering a number of years have been distributed to copyright owners, according to voluntary agreements among claimants or as a result of orders of the Copyright Royalty Judges, who make determinations with respect to the distribution of the royalties in contested proceedings. The Office also began a multiyear business process reengineering of these services designed to decrease processing times for statements of account, implement on-line filing processes, and improve public access to Office records. This plan will be implemented and refined throughout fiscal 2012 and 2013. Stakeholders have weighed in on the process and have been regularly briefed.

### *Acquisitions*

Separate from the registration system, the Copyright Office also administers the mandatory legal deposit of works published in the United States. In fiscal 2011, the registration system and mandatory deposit provisions yielded more than 700,000 copies of creative works for the Library's collection, which the Library would otherwise have had to purchase, and which are valued at approximately \$31 million.

Because more and more journals, magazines, and newspapers are "born digital," the Copyright Office has led a Library-wide effort to obtain and manage serials that publishers

supply only in electronic formats. Although the project currently focuses on mandatory deposit provisions under Title 17—provisions that require publishers to deposit copies of certain works with the Library of Congress within three months of publication—it serves as a test bed for the intake of online works by the Library through other mechanisms, including the registration system. The Office’s current work sets the stage for the Library’s electronic acquisition strategy, which will ultimately expand to include other “born digital” works and will enhance and diversify the Library’s collections to capture and reflect American Internet culture.

### **Challenges of the Current Fiscal Environment**

At a time when copyright law is increasingly ubiquitous, Congress is wrestling with complex policy questions, and demand for public records of copyright information are on the rise, the Office is working with a skeletal staff and an increasingly challenging budget. Since fiscal 2010, it has absorbed 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). In fiscal 2012, a reduced appropriation, as well as fees that were lower than expected, required the Copyright Office to make significant cutbacks. In general, the Office receives two-thirds of its budget from fees (and the authority to spend them) and one-third from appropriations.

To absorb the combination of reduced appropriations and reduced fees, the Office reduced its workforce by forty-four staff members—approximately 10% of the Office’s total workforce—by executing VERA and VSIP separations. The Office has also taken steps to delay and reduce new hiring, training, travel, supplies, and new equipment expenditures, as well as critical upgrades (including security-related patches) related to the Office’s registration program. The Office operates with precious little reserve, a situation that does not reflect the fact that in a business that runs seven days a week, emergency funds are necessary. Nor does it reflect the reality that the Office must remain nimble with its policy priorities. These frequently shift in response to decisions of Congress or the courts, and may require additional, expert staffing and resources for travel or public meetings.

It is clear to me that continued funding limitations could have long-term effects on the Office’s ability to execute and improve the registration and recordation programs. In the short term, we are concerned about a lack of sufficient staff and technology failures due to aging infrastructure. We must also be sensitive to avoid another backlog of copyright claims—a result that would negatively affect the legal rights of authors and negatively affect copyright commerce. Perhaps more importantly, the quality and accuracy of the Office’s public services could be compromised. Federal courts rely on the Office’s assessment of copyrightability and ownership, and we must ensure that speed does not come at the expense of an accurate and legally dependable certificate of registration. Finally, as mentioned above, constituents of the Office have expectations that far exceed our current capabilities in registration and recordation, and long-term improvements to the legal benefits and technical interfaces will not be possible under current funding levels.

### **Conclusion**

Mr. Chairman, Ranking Member Lofgren, and Members of the Subcommittee, thank you for your support of the U.S. Copyright Office and please do not hesitate to let me know if my team or I can be of further service.