Copyright Law & Policy Developments 2018
33rd Annual Intellectual Property Law Conference
American Bar Association – Intellectual Property Law

Catherine Zaller Rowland
Associate Register of Copyrights & Director of Public Information and Education
Although small in size, the Office is not small in importance. . . . America’s creativity is the envy of the world, and the Copyright Office is at the center of it.

CHAIRMAN BOB GOODLATTE

The Copyright Office has maintained a high level of service to the public and to Congress in spite of very limited funding and serious staffing shortages.

RANKING MEMBER JERRY NADLER
BY THE NUMBERS

452,000+ registrations

nearly 194,000 public inquiries and almost 2,000 in-person visitors

collected almost $220 million in royalty fees; managed over $1 billion
• Joint plan explains centralization of all IT functions in the library under OCIO.

• Establishment of Copyright Modernization Office to coordinate efforts.

• Discusses budget requirements required for this ambitious and technologically sophisticated undertaking.
MODERNIZATION STATUS

FY 2018
- Q1: Recordation Development
- Q2: Registration Requirements

FY 2019
- Q3: Recordation Development
- Q4: Registration Portal Development

FY 2020
- Q1: Workflow Modernization Analysis and Requirements Updates
- Q2: Public Records System Development/Back Office Workflow Development

FY 2021
- Q3: Operations and Maintenance Dev.

FY 2022
- Q4: Project/effort is planned at the high level but no planning for the specific task has occurred

FY 2023
- Q1: Project/effort is currently under way
- Q2: Project/effort is in the planning stages and/or about to commence
- Q3: Project/effort is planned at the high level but no planning for the specific task has occurred
- Q4: Project/effort is planned at the high level but no planning for the specific task has occurred

Timeline:
- Q1: Recordation Development starts
- Q2: Registration Portal Development starts
- Q3: Recordation Minimum Viable Product Achieved
- Q4: Registration Portal Minimum Viable Product Achieved
- Q1: Initial Modernization Effort Completed
- Q1: Training/Guidance Development for Registration Portal starts
LAUNCHED in January

VIRTUAL CARD CATALOG PROOF OF CONCEPT

Overview
One of the Copyright Office's long-term goals is to make its collections available to the public electronically. As part of an ongoing effort to make its records more accessible, the Copyright Office has created this virtual card catalog. The card catalog is an index to copyright registrations and other public records pertaining to ownership of intellectual property. The catalog enables users to identify original copyright registration records and other U.S. Copyright Office records from 1870 through 1977.

Prior to 1978, copyright records were handwritten or recorded in computerized forms within the Copyright Office Reading Room in Washington, D.C. When copyright was centralized under the Copyright Office, back to 1870 when copyright was centralized under the Copyright Office.

SELECT AN INDEX

INDEX
Card Catalog, 1971-1977
Card Catalog, 1865-1870

ABOUT THE VIRTUAL CARD CATALOG
The U.S. Copyright Card Catalog provides an index to copyright registrations and other public records pertaining to ownership of intellectual property. The catalog enables users to identify original copyright registration records and other U.S. Copyright Office records from 1870 through 1977. The information in these records typically includes: author(s), title of work, copyright registration number, and effective date of registration. These records do not include the full registration records or copies of deposited works registered with the Copyright Office.

The card catalog also contains entries for transfers of ownership, generally one card for each title, assignee, and assignor.
10 recently closed rulemakings

- Electronic filing section 111 cable statements of account
- Group registrations (newspapers, photographs, contributions to periodicals)
- Recordation interim rule
- Single copy (literary monographs/musical compositions)

10 open rulemakings

- Deposits for e-books
- Unpublished works
New rulemaking launched June 2017

In fall 2017, NOI with renewals and exemption categories

Adopts many renewal petitions

Hearings in DC last week, Los Angeles next week
FEE STUDY

Must consider elasticity (drop off from price increases) and public interest

Most fees do NOT cover costs

- Form CA: fee is $130 but USCO cost is $413
- First appeals: fee is $250, but USCO cost is $730
- Vessel hulls: fee is $400, but USCO cost is $6,529

Next fee study NRPM coming soon!
Launched per congressional request:
12/31/15

92,000+ comments and hearings with 100+ witnesses:
4/1/16-2/21/17

Empirical studies delivered:
3/22/2017

SECTION 512 STUDY
Official launch
January 2017

60+ comments

Examines moral rights in the United States (rights of attribution and integrity)
Follows orphan works study

Almost 3,000 comments

Focus on registration, licensing, and enforcement

Landscape document coming soon
• Register of Copyrights Selection and Accountability Act of 2017 (S. 1010)

• Register of Copyrights Selection and Accountability Act of 2017 (H.R. 1695)

• You Own Devices Act (H.R. 905)

• Copyright Office for the Digital Economy Act (H.R. 890)

• Direct Broadcast Satellite Expansion Act of 2017 (H.R. 192)

• Marrakesh Treaty Implementation Act (S. 2559)
CASE ACT (HR 3945)

Introduced by Rep. Jeffries with multiple cosponsors

Tribunal in Copyright Office to settle small copyright claims

Voluntary system

Damages limited to $30,000

Streamlined procedures
Mirrors many Copyright Office study recommendations

Voluntary to comport with Constitution (Article III, Seventh Amendment, Due Process)

Declaratory judgment actions and 512(g) claims included

Appeals similar to FAA
PENDING LEGISLATION: 115th CONGRESS

FAIR PLAY FAIR PAY ACT OF 2017 (H.R. 1836)
Public performance right for sound recordings

PROMOTE Act of 2017 (H.R. 1914)
Sound recording owners “opt out” radio performance

CLASSICS Act (H.R. 3301)
Pre-72 sound recordings

TRANSPARENCY IN MUSIC LICENSING AND OWNERSHIP ACT (H.R. 3350)
USCO database of sound recordings and nondramatic musical works

ALLOCATION FOR MUSIC PRODUCERS ACT (H.R. 881)
Instructions on distributing royalties to producers, mixers, and sound engineers

MUSIC MODERNIZATION ACT (H.R. 4706)
Comprehensive music licensing structure overhaul
Music Modernization Act (H.R. 5447)

Instructions on distributing royalties to producers, mixers, and sound engineers

CLASSICS Act (H.R. 3301)

Pre-72 sound recordings

MUSIC MODERNIZATION ACT (H.R. 4706)

Comprehensive music licensing structure overhaul
LITIGATION TO WATCH

Fourth Estate Public Benefit v. Wall-street.com
(circuit court split re: registration or application rule)

Green v. U.S. Department of Justice
(APA and constitutional challenge to section 2015 1201 rulemaking)
POWERING CHANGE:
Women in Innovation and Creativity

Thursday, April 26, 2018
10:30 AM – NOON
Coolidge Auditorium
Jefferson Building, Library of Congress
10 First Street SE, Washington, DC

Request ADA accommodations five business days in advance at ada@loc.gov.
Contact register@copyright.gov for more information.

FEATURED SPEAKER
Representative Judy Chu
CREATIVE CONGRESSIONAL CREATIVITY RIGHTS CAUCUS

REMARKS
Karyn A. Temple
ACTING REGISTER OF COPYRIGHTS

PANEL DISCUSSION
Judy Herrmann
PHOTOGRAPHER
Michelle Hurd
ADVISOR, CREATIVITY & LACI, RUNDSPOT, LAW & ORDER: SVU
Georgia Stitt
COMMUNICATIONS SPECIALIST, SONY MUSIC ENTERTAINMENT
Julie Swidler
EVP, BUSINESS AFFAIRS & GENERAL COUNSEL, SONY MUSIC ENTERTAINMENT
Michele Woods
WORLD INTELLECTUAL PROPERTY ORGANIZATION PANEL MODERATOR

Copyright Office Proposes Rule Regarding Mandatory Deposit of Electronic-Only Books
Issue No. 714 - April 16, 2018

The United States Copyright Office today published a proposed rule subjecting electronic-only books to mandatory deposit if a written demand is issued by the Copyright Office. The proposed rule also makes a 2010 interim rule concerning electronic-only works final and applies the rule governing public access to electronic works to encompass electronic serials and electronic books received via mandatory deposit.

The notice of proposed rulemaking and instructions on how to submit a comment are available here. Written comments must be received no later than May 31, 2018, at 11:59 p.m. eastern time.

Recent Issues
No. 716
U.S. Copyright Office Electronic Registration System and Procedure to Be Open for Examination
January 15

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