



Statement of

**Keith Kupferschmid
Chief Executive Officer
Copyright Alliance**

before the

**HOUSE COMMITTEE ON APPROPRIATIONS
Subcommittee on Legislative Branch**

April 17, 2018

On behalf of our membership, the Copyright Alliance submits this written statement for the record as an outside witness for Legislative Branch Appropriations for Fiscal Year 2019. A modern and efficient U.S. Copyright Office is critical to a 21st century copyright system. We applaud the Subcommittee's attention toward ensuring that the Copyright Office has the resources it needs to meet the challenges of the future, and we submit these comments to help the Subcommittee continue in this effort.

The Copyright Alliance is a non-profit, non-partisan public interest and educational organization representing the copyright interests of over 1.8 million individual creators and over 13,000 organizations in the United States, across the spectrum of copyright disciplines. The Copyright Alliance is dedicated to advocating policies that promote and preserve the value of copyright, and to protecting the rights of creators and innovators. The individual creators and organizations that we represent rely on copyright law to protect their creativity, efforts, and investments in the creation and distribution of new copyrighted works for the public to enjoy.

Within the copyright ecosystem, the Copyright Office plays a pivotal role in the registration of creators' works and the recordation of documents pertaining to those works. The ability of our nation's independent creators, and the businesses that support them, to promptly register and record copyright interests with the Office, and of the public to obtain copyright information that enables them to license copyrighted works, creates new industries and spurs the economy, which, in turn, advances our global competitiveness and technological leadership.

In view of the ongoing and rapid changes in the information, entertainment, and technology sectors, the Copyright Office has never been more important than it is today in ensuring that copyright owners have access to critical services that support their endeavors—including the creation and dissemination of works to the public, and the development of innovative new business models by which to distribute such works.

We offer the following points for the Subcommittee’s consideration.

Copyright Office Funding in General

The Copyright Office should continue to be funded through a mix of user fees and appropriations. Appropriations are an important and proper source of funding for both Copyright Office operations and Copyright Office IT modernization since the public is the ultimate beneficiary of copyright information retained and disseminated by the Office and, by extension, of a modernized Copyright Office. Copyright registration benefits the public by providing it with a searchable database of copyright registration and ownership information, which enables database users to determine authorship and other information about works, contact owners for licensing or other usage, and determine whether works are in the public domain and freely useable.

The fees collected by the Copyright Office through its services play a critical role in its funding, but the Office cannot operate under a fully self-funded model. Since copyright registration and recordation are voluntary, any additional costs or barriers serve as a disincentive to participation in the system and result in a less robust public database of copyrighted works and ownership information.

Copyright Office Modernization

The Copyright Alliance fully supports the Office’s modernization efforts and asks for this Subcommittee’s continued support for authorizing appropriations directed toward accomplishing this goal.

Last September, the Copyright Office released a *Modified Provisional IT Modernization Plan*,¹ developed in conjunction with its parent agency the Library of Congress, in response to a request by the House Committee on Appropriations. The report supplements the Office’s 2016 *Provisional IT Plan*,² and both reports read together outline a vision for “an innovative and robust technological infrastructure” that will facilitate the Office’s services “in a streamlined, efficient, and cost-effective manner.”³ Appropriate funding will advance this vision. We thank the Subcommittee for supporting modernization funds in FY18 and ask that this support continues in FY19.

¹ U.S. Copyright Office, *Modified U.S. Copyright Office Provisional IT Modernization Plan* (2017), <https://www.copyright.gov/reports/itplan/modified-modernization-plan.pdf> (Hereinafter *Modified IT Plan*).

² U.S. Copyright Office, *Provisional Information Technology Modernization Plan and Cost Analysis* (2016), <https://www.copyright.gov/reports/itplan/technology-report.pdf>.

³ *Modified IT Plan* at 1.

We want to underscore the absolutely critical role that security plays in the Copyright Office's IT, particularly to prevent unauthorized access to electronic versions of deposit copies that our members provide as part of the copyright registration process and which the Library of Congress acquires through mandatory deposit. These works represent the lifeblood of our members, and it would undermine trust in the voluntary registration process if such works were not adequately protected from security risks. It is essential that the Library maintains a robust and up-to-date security plan and implements necessary security measures as modernization efforts advance.

Continued Operation During Shutdowns

We support a change in the Appropriations language that would allow the Copyright Office to use prior year balances to avoid having to shut down its services during government-wide shutdowns.

Shutting down Copyright Office systems that operate 24 hours a day is disruptive both to the Office and to registrants and other users of the system, and impedes contract enforcement and litigation, as well as increasing examination backlogs. The ability to file a civil action for copyright infringement and the availability of certain legal remedies are tied to the effective date of registration (the date the Copyright Office receives application materials), so anything that disrupts the Office's 24/7 operations disrupts these important business practices.

A brief shutdown during February 2018 was particularly disruptive since it coincided with the effective date of a rule change for group registration of photographs.⁴ Because the shutdown required the Copyright Office to close its registration system several days before the effective date, it amounted to a *de facto* early implementation of the rule change, burdening and frustrating photographers who planned to use these additional days not only to register their works under the current rule, but to also better acquaint themselves with the new rule.

Shared Services

Currently the Library of Congress' Office of the Chief Information Officer provides the Copyright Office, along with all other Library service units, with the vast majority of its commodity IT needs under a shared services model. The Copyright Office's *Modified IT Plan* assumes that new or updated shared services may be necessary to realize modernization.

Funding for any new or updated shared services needed for Copyright Office modernization should be provided through the Library of Congress' budget and appropriation. Otherwise, it would amount to a *de facto* diversion of Copyright Office funds, and we ask the Subcommittee to be on guard against such an occurrence.

⁴ Group Registration of Photographs, 83 Fed. Reg. 2542 (Jan. 18, 2018) (to be codified at 37 C.F.R. pts. 201, 202).

Copyright Office Expertise

Finally, as in previous years, we ask the Subcommittee to include language in the Committee Report directing the Library of Congress to defer to the copyright expertise of the Register of Copyrights. The Copyright Office is authorized by statute to provide advice on copyright matters to Congress, the Executive Branch, and the Judiciary,⁵ and it has the institutional expertise that enables it to fulfill that task to the highest standard.

Conclusion

We thank the Subcommittee for its consideration of these points. Please let us know if we can provide additional information or answer any questions regarding our views on this matter.



Keith Kupferschmid
Chief Executive Officer
Copyright Alliance

⁵ 17 U.S.C. § 701(b).