

**Senate Judiciary Committee
Subcommittee on Intellectual Property
Oversight Hearing of the U.S. Copyright Office
September 7, 2022**

**Responses to Questions for the Record
by Shira Perlmutter
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Questions Submitted by Senator Patrick Leahy, Chair of the Subcommittee

- 1. Your 2022-26 Strategic Plan states that you intend to “make more data easily accessible to both internal and external audiences.” I commend you on this goal.
 - a. With regard to the Copyright Claims Board (CCB), what data is currently available, and where can the public find it online?****

Response: The eCCB system contains publicly available data on Copyright Claims Board (“CCB”) proceedings. It is set up to allow the public to see the claims, filings, and determinations in any matter (excluding filings containing confidential materials or personally identifiable information), so the public can tell how many claims are filed, what types of works are involved, how many claims have been dismissed or have had opt-outs filed, and how many have become active proceedings. The public can access this information in the eCCB system, <https://dockets.ccb.gov/>, which the CCB website links to. There is no need to create an eCCB account to do so.

Because the CCB launched in mid-June 2022, only the data associated with claim filing is currently available. The eCCB system has the ability to generate internal reports of several different data points, which the Office will provide to the public and use to continually improve the CCB’s operations.

- b. What additional data do you anticipate making available?**

Response: With regard to the CCB, the Office plans on providing public data on topics including: total claims submitted; types of works at issue (*e.g.*, photographs, sound recordings, musical works, literary works, etc.); types of claims filed (*i.e.*, infringement, declaration of noninfringement, or misrepresentation claims); parties’ state and country; representation (*i.e.*, parties represented by legal counsel or appearing pro se); opt-outs; and final determinations. As the CCB gains experience, the Office will have a better idea of what useful data can be generated and shared with the public.

c. Does the Copyright Office have the appropriate resources to continue investing in the CCB and ensuring its success as an alternative forum?

We are very pleased with how the new system is functioning so far. We were able to complete the initial implementation on time and within budget. The CCB will, however, need continued IT support going forward to ensure that the electronic filing and document management system continues to operate well and that we can make changes as we gain experience. Finally, as the CCB has proved to be busier than we initially expected, we will continue to evaluate whether it would benefit from additional staff. We will keep the subcommittee informed as we learn more.

2. In 2018, the Copyright Office promulgated a rule limiting the number of photographs a photographer can register in bulk to 750. I understand that, previously, there had been no limit. Wedding photographers take roughly 4,000 images on an average day, so they have to pay almost \$300 to register something that used to cost \$55.

a. Do you plan to make changes to the group registration system to account for photographers who have large volumes of photographs and suffer adverse consequences for not registering all of them?

Response: Yes. We are actively working with the Library's Office of the Chief Information Officer ("OCIO") to enhance our upload and examination capabilities in the new Enterprise Copyright System ("ECS") system. While this will benefit all applicants, it will specifically expand our ability to receive and examine a higher volume of photographs in a group registration application. The new system is also being designed to use the file names as the default titles for uploaded works, which would greatly simplify the application process for group registration of photographs.

b. Also, some (non-photographic) works exceed file size limitations and have to be registered in parts, with the copyright owner paying for uploading each part. Do you plan to update the registration system to allow for a single registration for multiple uploads for a single work?

Response: We are working with OCIO to increase the file size limits significantly in the new ECS system so that applicants may upload large files, such as feature-length motion pictures. In the current eCO system, applicants are able to submit a deposit in multiple parts if it exceeds the file size limitation. We do not charge applicants additional fees for doing so.

- c. **Similarly, multimedia works require registration across multiple categories, and the copyright owner is then required to pay for each category. Do you plan to update the registration system to allow for a single registration for a multimedia work?**

Response: The primary difficulty with multimedia works, particularly electronic multimedia works, is fixation of the multiple categories of authorship into a single deposit. Some forms of multimedia works crossing multiple categories of authorship are routinely registered with one application and fee, *e.g.*, video games and computer programs. However, multimedia works that are available only online present greater fixation challenges. We are currently exploring file formats, including ePub, to determine whether adding them to the acceptable file type list would benefit applicants and the examination process.

3. **In California, creators have sued online platforms that inadvertently removed copyright management information from the metadata of videos shared on their platforms. Under the Digital Millennium Copyright Act, copyright management information cannot be intentionally removed or modified, knowing it will “induce, enable, facilitate, or conceal” copyright infringement. Would the preservation of this metadata decrease infringement on the internet?**

Response: The Copyright Office included a discussion of the dual intent standard of the Digital Millennium Copyright Act (“DMCA”) for the removal of copyright management information (“CMI”) in its 2019 report, *Authors, Attribution, and Integrity: Examining Moral Rights in the United States*. There, we noted that Congress in enacting the DMCA saw CMI as aiding in “indicating attribution, creation and ownership” of a work. We believe that these attributes of CMI—which, in digital works, tend to be embedded in metadata—do serve to decrease infringement on the internet, in part by facilitating licensing agreements.

4. **The Mechanical Licensing Collective (MLC), the organization created under the Music Modernization Act to collect mechanical royalties for songwriters and publishers, also has an obligation to identify the owners of musical works that have accrued royalties when the owners are not known. The major publishers who largely control the MLC keep the royalties from unidentified works if the owners cannot be found. Over the past year, the MLC has identified only a tiny fraction of the rightful owners. The major publishers stand to gain hundreds of millions of dollars from that failure to find rightful owners. We did not intend to create a disincentive for the MLC and major publishers to find the rightful owners of music works.**

a. What can the Copyright Office do to help ensure that the MLC is working to make sure that rightful owners of music works are identified and paid?

Response: The Mechanical Licensing Collective (“MLC”) should make every reasonable effort to ensure that royalties are paid to the rightful owners of musical works. According to the MLC’s first annual report, it has distributed over \$420 million under the new blanket license for uses reported in 2021, with a steadily improving match rate reported to be approximately 88% of all royalties. With respect to the historical, pre-2021, unmatched royalties, which were reported to be about \$426 million, the annual report says that the MLC recently started distributing those that it has been able to match. It also says that the MLC has begun making associated usage data for historical unmatched royalties available to copyright owners, which will facilitate further claiming and matching. Notably, the MLC plans to wait to process historical unmatched royalties from the Phonorecords III rate period until the Copyright Royalty Judges finalize those rates in the ongoing remand proceeding and digital music providers provide adjusted reports of usage and royalty payments. It is the Office’s understanding that the bulk of historical unmatched royalties come from that period.

The Copyright Office has been active on the issue of matching musical works to accurately pay copyright owners. Last year, we issued a report recommending best practices for the MLC to consider to reduce the incidence of unclaimed royalties. The report’s comprehensive recommendations ranged from high-level concepts to detailed suggestions across seven areas: (1) education and outreach; (2) usability of the MLC’s systems, including the public musical works database and claiming portal; (3) data quality; (4) matching practices; (5) holding and distributing unclaimed accrued royalties; (6) measuring success; and (7) transparency. One of the report’s most significant recommendations was that the MLC should hold unclaimed royalties for longer than the statutory minimum period, to maximize its matching efforts and the ability of copyright owners to make claims before any market-share-based distributions are made. We recommended that the MLC should wait to make such distributions of unclaimed royalties based on the evaluation of various objective criteria, like match rates and engagement metrics.

Additionally, the Office and the MLC are each involved in substantial education and outreach efforts to help ensure that publishers and songwriters, especially self-published songwriters, are aware of the Music Modernization Act (“MMA”), understand their rights under the new system, know that they can register their works with the MLC and claim royalties, and know that royalties for unclaimed works will be equitably distributed to known copyright owners.

The Office is continuing to engage with the MLC and other industry stakeholders, including digital services and songwriters, to monitor the MLC’s progress as it continues to

ramp up operations. While the MLC has not indicated that it plans to make a distribution of unclaimed royalties anytime soon, the Office possesses broad regulatory authority to act if necessary to prevent a premature distribution. The statute requires the MLC to give ninety days' notice before any distribution. We have previously cautioned that making a premature distribution of unclaimed royalties could jeopardize the continuation of the MLC's designation. 84 Fed. Reg. 32,274, 32,283 (July 8, 2019) ("[I]f the designated entity were to make unreasonable distributions of unclaimed royalties, that could be grounds for concern and may call into question whether the entity has the 'administrative and technological capabilities to perform the required functions of the [MLC].'" (quoting 17 U.S.C. § 115(d)(3)(A)(iii)).

b. You are scheduled to review the MLC in January 2023. In that process, will you address whether you view the MLC's current statutorily imposed makeup, which has ten publishers and four songwriters, as fair?

Response: Under the MMA, the Office is tasked with reviewing the MLC's designation every five years, with the first such review commencing in January 2024. 17 U.S.C. § 115(d)(3)(B)(ii). As part of that process, we must solicit information from the public concerning whether the existing designation should be continued or a different entity satisfying the statutory criteria should be designated. Congress has indicated that "continuity in the collective would be beneficial to copyright owners so long as the entity previously chosen to be the collective has regularly demonstrated its efficient and fair administration of the collective in a manner that respects varying interests and concerns. In contrast, evidence of fraud, waste, or abuse, including the failure to follow the relevant regulations adopted by the Copyright Office, over the prior five years should raise serious concerns within the Copyright Office as to whether that same entity has the administrative capabilities necessary to perform the required functions of the collective." H.R. REP. NO. 115-651, at 6 (2018); S. REP. NO. 115-339, at 5 (2018).

The Office is committed to undertaking a thorough review of the MLC's designation during the review proceeding. At this early date, however, we cannot predict what the record of that proceeding will be or what conclusions we may be able to draw. We are aware of concerns that some groups have raised regarding composition of the MLC's board. We continue to engage with stakeholders on this issue and others related to the operation of the MLC. Of course, the board's composition is set by statute and any changes would require an act of Congress. 17 U.S.C. § 115(d)(3)(D)(i).

Questions Submitted by Senator Thom Tillis, Ranking Member of the Subcommittee

- 1. Regarding deferred registration examination (DRE) procedure, can you please elaborate on the alternative approaches to DRE that the Copyright Office is considering? And, in doing so please explain the nature, scope, and status of your review with respect to the approaches and whether these suggested approaches can be achieved by regulatory action or require Congressional action.**

Response: The Office does not believe that Congressional action is necessary to implement the alternative approaches to deferred registration examination that we are considering. These approaches will, however, require technical capabilities that we expect to achieve in the new ECS.

Our specific goals include:

- Examine the introduction of a dynamic fee structure and subscription pricing. As we also explore the options that are possible in the new technological environment of ECS, we will also initiate a regulatory process to obtain public comment.
 - Create technological options for APIs to enable hardware, software, and third-party organizations to achieve integration with our ECS system.
 - Increase the maximum limit on the number of photographs that may be submitted in a single group application when we achieve enhanced upload and more efficient examination capabilities in the ECS system.
 - Initiate a Notice of Proposed Rulemaking on a new group registration option for two-dimensional artwork in the coming fiscal year for implementation in the ECS system.
- 2. What is the specific nature, scope, and status of your review of possible fee structure changes and to what extent the Copyright Office's new Chief Economist is involved in those considerations?**

Response: The Office usually conducts a fee study about every five years. We initiated the last fee study in June 2017 and concluded it in early 2020, with updated fees taking effect March 20, 2020. We are starting internal preparatory work for the next fee study, and such internal work will carry through next year. Our Chief Economist is planning research both on the demand side, including registrants' price sensitivity, and on the cost side, looking at operating costs associated with various types and volumes of works submitted. That research will inform the future launch of the study and any

additional notices, which is when we will invite public comments, as we have in prior fee study proceedings.

3. Regarding the series of consultations that the Copyright Office held this summer on technical measures that identify or protect copyrighted works:

a. Do you have any initial impressions to share based on all of the statements of interest filed and comments made during these consultations?

Response: Our initial impression is that these consultations have been productive and have enhanced mutual understanding of the issues involved. We have received positive feedback from stakeholders and have heard that they are continuing conversations outside of the consultations.

b. Were there any areas of consensus?

Response: Several common themes were identified as important and deserving attention. Participants emphasized the enormous variety of actors in the online ecosystem and the diversity of their needs when it comes to technical measures; the importance of quality metadata to attribution-related technologies; and the significant challenges involved in both automated and human review. There was also some consensus that the Copyright Office could play a valuable role by continuing to convene discussions among stakeholders.

c. When can we expect to see a written product coming out of the technical measures consultations?

Response: We plan to deliver a written product by the end of 2022.

d. Do you have any evolving thought on the need for legislation to empower the Copyright Office to identify Standard Technical Measures (STMs) under 512(i)?

Response: We are reviewing that question now as part of our separate inquiry on Standard Technical Measures (“STMs”) under 512(i). We understand the goal of giving substance to the provisions on STMs that were included as part of the DMCA’s section 512 compromise. But as to the Copyright Office’s role, both our roundtables on STMs in 2020 and the comments responding to the current STM inquiry have demonstrated significant concern about whether the Office has the relevant expertise to identify STMs under a modified 512(i) process. We share that concern. Depending on any potential process for identifying STMs, we also question whether we have the staff resources that would be needed.

4. Regarding the Copyright Office published notice of inquiry (NOI) titled “Standard Technical Measures and Section 512:”

a. When can we expect to see a written product coming out of this inquiry?

Response: We plan to deliver our written findings by the end of 2022.

b. Do you expect any crossover in the report with the information gathered during the technical measures consultations?

Response: While the technical measures consultations are separate and not designed to identify technologies that could become STMs, we will certainly consider whether anything we learned could inform the STM issues.

5. Regarding the American Law Institute’s (ALI) recently approved sections of its Copyright Restatement:

a. Do you feel that the leaders of the ALI’s Copyright Restatement project have been responsive to the substantive and procedural concerns raised by the Copyright Office?

Response: The American Law Institute (“ALI”) has been generally responsive to the Copyright Office experts’ comments relating to technical or legal points in draft text. In our experience, however, ALI has been less receptive to our comments with policy implications, including when we have noted overly broad characterizations of unsettled law. We have been particularly concerned about sections of the proposed Restatement where we believe more balance is needed, when the draft has not been revised to address the points made.

b. Do you agree that a restatement of copyright law is totally inappropriate and should be abandoned by the ALI?

Response: Since the project started, the Copyright Office has raised the fundamental concern that the draft Restatement purports to state “black letter” law that differs from the text of the Copyright Act. In our view, the statute *is* the black letter law, and its precise terms were carefully drafted and represent a complex and nuanced balance. When the Restatement’s “black letter” differs from the statutory text, it will inevitably create ambiguity and confusion for the courts and the copyright community.

This does not mean that the project should be entirely abandoned. But it is important that it not offer a conflicting source of “black letter” law; that the text be accurate and balanced; and that it provide clarity as to what is the majority rule and what constitutes

the Reporters' own views and recommendations. It would be particularly valuable to accurately capture the consensus view of the courts which have developed broad common-law type copyright concepts—such as originality, substantial similarity, and fair use. If these requirements are met, a Restatement could be useful to courts and practitioners.

6. What are your thoughts regarding the current state of IP protection, specifically copyright, as it pertains to emerging technologies, such as non-fungible tokens (NFTs)?

Response: We continue to monitor copyright issues arising from emerging technologies such as non-fungible tokens (“NFTs”), software-enabled devices, and artificial intelligence. With respect to NFTs, we plan to explore a range of copyright issues through our upcoming joint study with the U.S. Patent and Trademark Office. We will soon be publishing a federal register notice soliciting public participation in this study. Separate from the study, we are following a number of NFT-associated copyright infringement cases working their way through the legal system.

7. What are your thoughts regarding concentrating our IP rights expertise into a single agency containing the U.S. Patent and Trademark Office, the Copyright Office, and possibly the Intellectual Property Enforcement Coordinator?

Response: Having worked at both the U.S. Patent and Trademark Office (“USPTO”) and the Copyright Office, I know that that each agency performs effectively in its respective areas, at both national and international levels. The offices collaborate regularly on issues of copyright policy, and it has been one of my priorities to further strengthen that collaboration.

At present, the current structure is working well, and I am not aware of any call from stakeholders to make a change. While a unified intellectual property office could create some efficiencies and might be appropriate if we were starting from a blank slate, combining agencies at this point would create considerable disruption, cost, and uncertainty. There is also a potentially substantial negative impact on the Library of Congress and its collections. While we believe that there is always a benefit to re-examining current agency practices, and we welcome suggestions for our respective policy agendas, we are proud of the ongoing collaborative work between the USPTO and the Copyright Office to advance our shared goal of a stronger and more inclusive intellectual property system. We welcome feedback on how we can further enhance our collaborative efforts on programming needs.

8. Regarding the Strengthening Measures to Advance Rights Technologies (SMART) Copyright Act:

- a. Do you believe the proposed SMART Copyright Act is sufficient to change the fact that since the Digital Millennium Copyright Act (DMCA) there has not been one established standard technical measure (STM)?**

Response: The Office is still reviewing stakeholder comments responding to our STM study. Many of those comments address the Strengthening Measures to Advance Rights Technologies (“SMART”) Copyright Act and will inform the Office’s perspective.

Based on the comments we have received, many rightsholders believe that a government-designation process for technical measures would bypass the need for consensus under section 512(i) and therefore result in more STMs subject to DMCA obligations. But there are considerable challenges and tradeoffs with such an approach. For example, some commentators suggested that any government body designating technical measures to be accommodated would risk interfering with markets and freezing innovation. Such an approach would need to be carefully calibrated to avoid these risks.

- b. In your opinion, is there anything that can be improved with the SMART Copyright Act that would make it more effective in combatting online piracy?**

Response: The Office shares concerns voiced by some commentators that we lack the resources and the technical expertise needed to administer a triennial rulemaking process to designate STMs. The SMART Copyright Act’s eleven-factor test is significantly more complicated than the analysis required under our section 1201 triennial rulemaking, which is already an intensive process for both the Office and stakeholders. The Office would also require new expertise, beyond copyright law, to evaluate factors relating to the costs, effectiveness, and impact of petitioned technologies, in addition to issues of cybersecurity, competition, privacy, and data protection. While the SMART Copyright Act would provide the Office with some additional resources, including a Chief Technology Advisor, these issues seem to call for the expertise of another type of agency.

9. What has been the initial reception and impact of the Copyright Claims Board (CCB) since it began accepting claims on June 16, 2022?

Response: The initial reception for the CCB has been very positive. We received 183 claims from June 16 to October 1, 2022, and the pace has been consistent. The types of claims and filers have been diverse. So far, the claims have related to practically every type of copyrighted work. As to geographical reach, the claimants reside in at least thirty-five states throughout the United States and in fifteen foreign countries. Claimants have been

both individuals and companies, and filings have been fairly equally split between *pro se* claimants and those with legal representation. We have also received positive feedback from those using the CCB's electronic filing and document management system.

10. Are there any additional steps that Congress can take toward combatting online piracy?

Response: Congress has taken one important step already, by passing the Protecting Lawful Streaming Act, which adds felony-level penalties for criminal acts of unlawful streaming.

At present, the discussions of voluntary technical measures that are taking place, including through the Copyright Office consultations, may lead to meaningful progress in curbing online piracy—with or without related consensus legislation to back it up.

Another area for possible attention would be to update section 512 of the DMCA. In the Office's June 29, 2020 letter to Senators Leahy and Tillis, we identified five clarifications or revisions to section 512 that would be the most beneficial if Congress wishes to retain the DMCA's original balance (while noting other areas of possible improvement as well). These included: (1) clarifying the difference between "actual knowledge" and "red flag knowledge"; (2) clarifying the content requirement for a valid takedown notice, including representative list issues; (3) providing the Office with more regulatory authority to set standards related to the manner in which compliant notifications may be submitted to designated DMCA agents; (4) considering reforms to section 512(f) for knowing misrepresentations in takedown notices and counter-notices; and (5) considering a more flexible approach that allows users to seek a faster evaluation of their counter-notices. As addressed in response to Question 3(d) above, the Office is also working on a study of STMs as defined in Section 512(i).

Finally, we note that a substantial portion of the infringing content available online comes from foreign sources, particularly websites hosted in other countries that are dedicated to infringement. Finding appropriate and balanced solutions to dealing with protecting intellectual property from these pirate sites could make a significant difference.

Questions Submitted by Senator Dick Durbin, Chair of the Committee

- 1. Please describe any trends apparent from the initial cases filed with the Board, including what types of copyright holders are bringing claims, whether they are hiring attorneys or proceeding *pro se*, and whether respondents are engaging with the system or opting out.**

Response: Claims have been filed by a variety of individuals as well as small and large businesses and organizations. As expected, the most common claim has been an allegation of the online infringement of photographs. At the same time, claimants alleging infringement of all types of works as well as claimants bringing misrepresentation and declaration of noninfringement claims are using the CCB. Individuals or companies representing themselves have filed slightly more than half of all claims, but other claimants have used attorneys. It is too early to perceive any trends about respondents' behavior, because the statute gives claimants ninety days to serve respondents and respondents sixty days thereafter to respond or opt-out, and the CCB has only been accepting claims since June 16, 2022.

- 2. When a claim is initially filed with the Copyright Claims Board, a Board attorney reviews the claim to make sure it gives enough information to the respondent and complies with the CASE Act and relevant regulations. The complainant cannot send the claim to the respondent until the attorney completes her review and authorizes service.**

- a. To this point, what is the typical timeline for Board attorneys to complete this approval process?**

Response: Based on the time since the CCB has opened its doors in June 2022, the typical period from when a claim is filed to when a compliance or noncompliance order is issued is, on average, five to six weeks.

The time for this "compliance review" has been decreasing as the CCB has refined its standard operating procedures and standardized language for dealing with noncompliant claims. Combined with an increased public understanding of the CCB processes, it seems likely that the time will continue to shorten.

The compliance review time depends on a variety of factors, including how many claims are filed in a given time period, how many are noncompliant, and how well claimants understand the CCB's requirements and processes. It is natural that claimants would have the lowest level of understanding at the start of the CCB's operations.

b. Are any additional resources required to make sure this approval process happens in a timely manner?

Response: It is too early to determine whether additional resources will be required. The time taken for the compliance review process will decrease as claimants learn more about the CCB, it develops standard operating procedures, and its responses related to noncompliant claims are refined. We are closely monitoring developments and will keep the subcommittee informed as we learn more about the CCB's needs.

3. What steps has the Copyright Office taken to make sure people know about the Copyright Claims Board?

Response: The Office engaged in extensive outreach leading up to the CCB's launch in June 2022. We continue to engage in public speaking, webinars, and media outreach along with producing educational materials both online and in print. We post tweets, blogs, and other information about the CCB on a regular basis and provide interviews to the press. These activities have all informed potential claimants, respondents, and the general public about the CCB's existence and operations. In the past year alone, CCB Officers and attorneys have engaged with more than forty groups via in-person events and virtual webinars.

Our outreach has included webinars in partnership with federal agencies that have relationships with small businesses, such as the Small Business Administration and the U.S. Patent and Trademark Office. We have worked to educate legal and business advisors through cooperation with bar associations and business support organizations, like volunteer lawyers for the arts organizations. We are also engaged in public outreach with various library groups.

In addition, we have reached out to approximately 100 law schools and *pro bono* organizations to discuss providing legal services to CCB participants. We held a roundtable and have scheduled educational webinars for several law school clinics and *pro bono* organizations for training purposes.

We plan to continue all of this outreach to ensure broad public awareness of the CCB as an affordable option for resolving smaller copyright claims.

4. What resources are available to potential [CCB] claimants and respondents to help them navigate this new system?

Response: The CCB's process has been designed to be user-friendly. The Office created an easy-to-navigate website that contains helpful resources, directories, and educational materials (*e.g.*, videos and FAQs). We have prepared a detailed and still-expanding handbook, with step-by-step guidance for those appearing before the CCB. The Office and Library have worked with an outside vendor to create a new electronic filing and document management system, called "eCCB." This platform walks parties through filings, with instructions and "tooltips" to give them extra information and links to additional resources.

The CCB's Copyright Claims Attorneys are available to answer questions regarding CCB procedures and give instructions, although, by law, they cannot give parties legal advice. The CCB also answers questions through a dedicated "help" email address. In addition, the Copyright Office's Public Information Office is trained to answer public inquiries about the CCB.

Finally, our website contains a list of organizations and law school clinics who can provide legal assistance to CCB participants on a *pro bono* basis, a list that we expect to grow in the near future.

5. The CASE Act called for the Copyright Claims Board to be up and running within 1 year of the President signing the bill into law. It provided you, as the Register, with the ability to extend this deadline by up to 180 days for good cause. You exercised this extension late last year to, among other things, give members of the public sufficient time to comment on the regulations proposed by the Copyright Office. What feedback did you receive and how did it shape the Copyright Claims Board?

Response: On November 30, 2021 I advised Congress that I had found good cause to extend the deadline for launching the Copyright Claims Board. As you note, this good cause finding was based, in part, on the public's interest in the rulemaking for the CCB and numerous commenters' requests for additional time to submit comments on the proposed rules. The Copyright Office received hundreds of comments on various aspects of the CCB's proposed regulations. Our staff thoroughly reviewed and considered each comment and used them to make many adjustments in the final regulations. These comments were critical to the Office's creation of a first-of-its-kind small claims court for copyright claims.

The feedback we received touched on many areas related to the CCB's procedures. For example, based on public comments, the Office amended its proposed regulations governing fees to create a two-tiered filing fee system, with a first fee payment due upon filing and a second payment due once a proceeding becomes active. This approach will

reduce the financial outlay and associated risk to claimants when initiating a proceeding, while complying with the statutory minimum filing fee requirements. In response to public comments, the Office was also able to streamline regulations governing case management and requests by placing them into categories of similar character limits and response times. Further, the Office was able to clarify questions regarding proposed regulations, including on topics governing hearing requirements, bad faith conduct, and holding proceedings in abeyance. Finally, based on suggestions from the public, the Office worked to simplify the CCB's regulatory language and minimize legalese. The public's input was extremely helpful, and the extension of the deadline to launch the CCB was important to ensure we received and incorporated this feedback.

My November 30 letter also identified the Office's ongoing work on the technology platform that is the foundation for the CCB. The time extension allowed the IT systems critical to the CCB's operations to be completed and user-tested. As a result, the CCB launched with a robust website and electronic filing and document management system.

6. The first goal listed in the Copyright Office's most-recent strategic plan was: "Copyright for All. We will work to make the copyright system as understandable and accessible to as many members of the public as possible, including individuals and small entities as well as historically underserved communities."

a. What steps is the Copyright Office taking to make sure the copyright system is understandable and accessible to all Americans?

Response: As you have noted, the Copyright Office has made "copyright for all" the primary goal in our strategic plan. Through multiple channels of public outreach and education, we strive to make the copyright system as understandable and accessible to as many members of the public as possible. Public outreach and education have long been a priority for the Office, and we are expanding our efforts to reach broader audiences.

The Office's in-person outreach and education activities have resumed since the pandemic shutdowns, alongside our virtual events and continued investment in live online and on-demand materials. We offer online resources such as publications, videos, and social and blog content; conduct events; and publish studies and news about developments in our operations. This includes a Learning Engine series on YouTube, designed to provide an introduction to those new to copyright. And we field many calls and inquiries from the public – over 251,000 in FY21. Working with the GSA Centers of Excellence, we have obtained a gap analysis and roadmap planning for a new multi-channel contact center to improve our communications capabilities.

In our physical space at the Library of Congress, we are currently hosting an exhibit called "Find Yourself in Copyright," which displays interesting artifacts and milestones

from U.S. copyright law history to show how everyone is both a copyright holder and a copyright user. Components of the exhibit are available online.

The Office is also using our expanding data analysis capacity to shed more light on who does and does not benefit from our services. An example is our recent report on *Women in the Copyright System*, which analyzed the gender gap in registrations of different categories of works over a forty-two-year period. We are examining how we can help narrow this gap, and our new Chief Economist is taking forward additional research to identify other potentially underserved groups.

Notably, the new Copyright Claims Board will help in opening up the copyright system by providing access to justice for creators and users with limited resources, who have not been able to use the federal courts to assert their copyright-related claims.

Finally, the Office has hired additional staff, including a diversity outreach specialist, to increase our capacity to reach underserved communities, including through government and private sector partnerships.

b. What can Congress do to help the Copyright Office reach its goal?

Response: We are evaluating the resources needed to best support our goal of expanding outreach and providing education to more members of the public, including to underserved communities. Virtual tools and partnerships have allowed us to do so in a cost-effective way so far, but we may need additional resources going forward to reach those on the other side of the digital divide.