



**BEFORE THE
U.S. COPYRIGHT OFFICE**

Alternative Fee Structures for Registration

Docket No. 2026-2

COMMENTS OF THE COPYRIGHT ALLIANCE

The Copyright Alliance appreciates the opportunity to submit the following comments in response to the [notice of inquiry](#) (“NOI”) published by the U.S. Copyright Office in the Federal Register on March 26, 2026, regarding the Copyright Office’s efforts to solicit information regarding potential alternative fee structures that could be implemented into the updated electronic registration system.

The Copyright Alliance is a non-profit, non-partisan public interest and educational organization representing the copyright interests of over 2 million individual creators and over 15,000 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, hard work, and investments in the creation and distribution of copyrighted works for the public to enjoy. Because copyright

owners must register their works with the U.S. Copyright Office in order to take full advantage of their copyright protections afforded under the law, improving the registration system and making it easier, more efficient, and more cost effective to register is a priority for all Copyright Alliance members, and many other copyright owners.

As the Copyright Office notes in the NOI, many of the proposed fee structures raised in the NOI have been discussed and raised by creators and copyright owners over the years as potential ways to incentivize increased participation in the copyright registration system.¹ The Copyright Alliance and our members very much appreciate the Office's consideration of these alternative copyright registration fee structures and support in principle the implementation of the following fee structures because they will further the goal of encouraging more robust participation in the copyright registration system and/or improve efficiencies related to the registration system:

- Small Entity Fees;
- Subscription Fees;
- Registration Fees for Single Unit of Publication in Digital Form; and
- Graduated Group Registration Fees.

This NOI is especially important because while copyright registration is voluntary, it also serves as an essential prerequisite to copyright owners' ability to fully enjoy the exclusive rights bestowed upon them by the Copyright Act and to enjoy certain other legal benefits. A registration system that is too costly and/or administratively burdensome effectively prevents many copyright owners from registering their works and thus, denies them the ability to enforce the rights granted to them under the law. Therefore, it is in everyone's best interest (except for infringers and those who oppose the enforcement of copyright more generally) to ensure that the registration system is easy and economical to use. If implemented properly, new fee structures have the potential to significantly improve the registration system for individual creators and

¹ Alternative Fee Structures for Registration, 91 Fed. Reg. 14724 (Mar. 26, 2026).

other copyright owners² and result in an increase in copyright registrations, enabling them to fully enjoy the benefits afforded by the Copyright Act. Increased registrations in turn benefit the Library of Congress and the public through a more robust copyright record and deposit system. With thoughtful and expedient design, implementation, and deployment of innovative technological and policy solutions, these benefits can come to fruition without taxing the Office's resources or requiring fee increases in excess of those related to inflation.

Our comments begin by listing general principles and considerations that the Office should use to guide its consideration of these alternative fee structures. Our comments next suggest two additional alternative fee structures that were not proposed in the NOI and then directly address the Copyright Office's four proposals identified in the NOI. After the Office has reviewed comments submitted in response to this NOI, we strongly encourage the Copyright Office to initiate public stakeholder discussions on the registration system, like a series of roundtables or listening sessions, to facilitate a more comprehensive record of concerns and potential solutions to assist ongoing modernization efforts.³ Not only will these discussions help the Copyright Office and relevant Library IT staff determine how to best to implement appropriate alternative fee structures, but they will also be useful to ensure a holistic development and eventual launch of the registration portion of the Enterprise Copyright System (ECS). While we provide preliminary thoughts about alternative fee structures in this submission, we also plan on providing more detailed comments and feedback if and when the Copyright Office issues a more formal rulemaking to implement any alternative fee structures.

² Throughout the rest of this submission, we will collectively refer to all creators and copyright owners who use the registration system as "applicants."

³ We appreciate that technical issues are discussed through the Copyright Public Modernization Committee (CPMC), however, the CPMC represents a small swath of the creative community, and its focus is on specific technical issues rather than registration policy issues. We believe additional discussions to comprehensively discuss the policy, business, technical, and regulatory issues altogether are necessary for modernization efforts to be holistic and complementary to maximize the benefits arising from the forthcoming ECS registration system.

I. GUIDING PRINCIPLES FOR ALTERNATIVE FEE STRUCTURES

The overall goal of implementing alternative fee structures should be to promote increased participation in the copyright registration system and to improve registration efficiencies. To accomplish these goals, such fee structures must be flexible and responsive to the needs of *all* copyright registration applicants. Applicants are primarily interested in how new fee structures can make it easier and more expedient to register their works as well as the fees associated with such structures.

If done correctly, we believe that certain alternative fee structures proposed by us (below) and the Copyright Office (in the NOI) will encourage an increase in filings of registration applications, including by applicants who have never filed or not filed in many years. And, due to the expected efficiencies of the ECS and other cost-saving measures that can be undertaken by the Office, (as described further below) the implementation of alternative fee structures can be accomplished in a manner that does not raise the Copyright Office expenses or force the Office to raise applicants' fees. Indeed, the success of any alternative fee structure will depend on the Copyright Office's continued efforts to modernize and streamline its own operations.

We are extremely concerned about the language in the NOI stating that “any net increase in filing volume would likely entail increasing fees, additional congressional appropriations, or both, to sustain Office operations.”⁴ We also continue to be concerned about how costs were calculated in the FRD Report which forms the basis for some of the Office's opinions about the desirability of certain alternative fee structures.⁵ For example, the FRD Report's calculation of indirect costs to determine cost assessments in registration examination for particular kinds of works seems to include expenses associated with Copyright Office divisions and other factors that should not be included. But an increase in registration volume for any kind of work does not mean the indirect

⁴ Alternative Fee Structures for Registration, *supra* note 1, at 14725.

⁵ See generally Copyright Alliance, Comment Letter on Notice of Proposed Rulemaking regarding Copyright Office Fees (May 4, 2026), <https://www.regulations.gov/comment/COLC-2026-0001-0079>.

costs will proportionately scale, especially for those that are not directly supporting the registration system (such as hiring more staff in the Public Information & Education or Policy & International Affairs departments, and mandatory deposit staff). As we explain in more detail in section I(A) below, an increase in filings does not necessarily mean that the Office's expenses also increase and the Office should pursue all opportunities to enhance efficiency in registration administration and overall Office processes. Efficient and streamlined Office processes are critical to maintaining a registration system that incentivizes applicants to register their works while advancing the Office's cost-recovery goals. In addition, if the Office and a subset of applicants are willing to accept increased pendency with respect to their applications, the Office expenses will not increase.

We suggest the following general principles and considerations as guiding principles to aid in planning, developing, and implementing new registration fee structures.

A. Applicants Are Not Monolithic; They Have Different Needs and Priorities

Applicants have different needs and priorities when it comes to whether, when, and how frequently to register their copyrighted works. They should not be treated as a monolithic group with the same priorities and needs. That means that when the Copyright Office evaluates different alternative fee structures, it must identify what types of applicants each fee structure is intended to benefit and design that structure to best support those applicants without disadvantaging others.⁶

For example, the needs, priorities, and incentives for many high-volume group registration applicants, such as professional photographers, will center largely around cost, convenience, and ease of filing registration applications. Many of them prioritize simple, streamlined registration processes that enable the quick, easy, and cost-effective registration of numerous works at one

⁶ When designing and implementing alternative fee structures the Office also need not sacrifice other features, like affordability or pendency.

time, while application pendency is comparatively less important. But for other applicants, pendency remains an important priority.

Importantly, when designing and implementing an alternative fee structure, the Copyright Office need not choose for applicants between factors like convenience, filing fee, and pendency and view these priorities as “trade-offs.” There are numerous potential approaches to alternative fees that could help the Copyright Office evaluate and apply these priorities. For example, a particular fee structure (like a subscription fee) could be made available only to certain types of applicants, or the Office could offer discounted registration fees for applicants who are willing to trade longer pendency for a lower filing fee (since increased pendency should lower the Office’s examination costs). We also stress that key technical modernization updates and streamlining Copyright Office’s practices and procedures will also help the Office juggle these priorities without needing to sacrifice various applicant priorities.

The Copyright Office must keep these differing priorities and needs in mind when designing any alternative fee structure to ensure that the fee structure is economical and attractive for the applicants who will use it, while not encumbering those it is not intended for. This last point is worth emphasizing. The Copyright Office should ensure that alternative fee structures do not adversely affect applicants who choose not to or do not have the option to avail themselves of such fee structures. A thoughtfully designed and implemented alternative fee structure will not and should not result in a registration system that inadvertently harms or burden applicants who do not choose or who are not eligible to participate in an alternative fee structure.

For example, assume that the Copyright Office implements a subscription fee that is widely successful and popular with the photography community and that results in a substantial increase in the number of applications and photographic works that these applicants register (as compared to today). The Office has several choices on how to respond to that increase. Should it (1) hire more visual arts examiners to deal with the increased filings; (2) move examiners from a non-visual arts examining division to the visual arts division to deal with the increased visual arts filings; (3) adopt measures to increase efficiency in examining photographic works, or (4) simply

let pendency for visual arts applications increase? Option #1 is not the preferred solution because it will lead to increased expenses for the Office, which might lead the Office to increase fees to offset that increased expense. Option #2 is not the preferred solution, because it would lead to increased pendency for other types of copyrighted works, where applicants likely value shorter pendency periods. Option #3 should certainly be part of the solution but may not do the trick by itself. Option #4 should also be part of the solution because many photographers prioritize expediency of filing and costs of filing over pendency and are willing to accept longer pendency times in exchange for improved ease of filing.

B. Alternative Fee Structures Must Not Delay ECS Launch

It is vital that the launch of the new ECS registration system not be delayed any further. While we appreciate the Office's consideration of efforts to implement alternative fee structures (i) such efforts should not delay or impede the Copyright Office's ongoing efforts to modernize and launch the ECS registration system; and (ii) the new ECS registration system should be flexible and technically capable of administering and processing alternative fee structures.

Although we recognize that any new fee structures may not become available until, or even after, the launch of the new ECS registration system, the Copyright Office must ensure that its new system will be able to accommodate the small entity and subscription fee structures as well as the fee structures we propose below in the event they are later adopted by the Office. Technical updates will be critical to implementing effective alternative fee structures such as implementing Application Programming Interfaces ("APIs"), which will unlock tremendous potential for many rightsholders. APIs are a necessary part of the ECS registration system regardless of whether the Office adopts any of the alternative fee structures. Through APIs, applicants will have the ability to automate the filing of applications and to make large scale filings, which would provide even greater efficiencies to make certain alternative fee structures, like a subscription model, highly attractive. These technical updates are key to ensuring that the cost per-unit can be reduced and the savings passed to the user, ensuring that alternative fee structures are sustainable. It will be critical for the Copyright Office to implement these and other technical features in developing the ECS registration system in order to maximize the efficacy of any new fee structure.

C. Existing Registration Options Should Not be Eliminated

It is premature for the Copyright Office to consider eliminating any current registration options. The current registration options service a variety of creators and copyright owners across a spectrum of creative fields—infrequent filers, low-volume filers, mid-volume filers, and high-volume filers, as well as sophisticated and novice filers. As we noted in our comments to the Copyright Office regarding our opposition to the proposed elimination of the Single Application, eliminating registration options is premature and inadvisable at this time.

None of the alternative fee structures will be an absolute replacement for one or more existing registration options, at least in the initial phase of rolling out a new fee structure. For example, a subscription fee may sate the registration needs of a high-volume filer but eliminating a group registration option where there is a subscription fee in place may be inappropriate for a moderate-volume filer who continues to value the group registration option itself.⁷

It is also inadvisable to eliminate any current registration option until the new ECS registration system is fully operational as the new system may effectively address the concerns underlying the proposed elimination and thereby render that change unnecessary. For example, when the ECS registration system is launched, the errors that are commonplace with the Single Application that drive up the Office's costs associated with this application (as explained in the Fee Study NPRM)⁸ may dissipate, making the Single Application more cost effective for the Office than it is today. As applicants adjust and transition into the new ECS registration system, there must be a period of time allowed to determine whether existing registration options under the current system should be phased out. Failure to take this approach risks losing the participation of applicants due to the abrupt nature of disruptions from such updates to the registration system.

⁷ See Copyright Alliance Comment Letter, *supra* note 5, at 22-25.

⁸ Copyright Office Fees, 91 Fed. Reg. 13529, 13533-34 (Mar. 20, 2026).

D. Fee Increases Are Not Inherently Necessary When Implementing One or More Alternative Fees Structures

Implementing and maintaining one or more alternative fee structures should not lead to fee increases for applicants, as efficiencies from ECS modernization, streamlined registration processes, and other cost-saving measures implemented by the Office will reduce costs over time. Simply raising fees does not resolve underlying issues with the copyright registration system and would further discourage applicants from registering their work—perhaps even for good. Raising fees as the primary solution also works against the Copyright Office’s statutory lodestar that fees be “fair and equitable”⁹ and fails to account for the significant public benefits attributable to the registration system. According to a Copyright Alliance survey of over 500 creators, 40% of creators who reported having filed a copyright registration application within the last five years indicated that they would either stop registering altogether or file fewer registrations from *any* increase in fees while 14% indicated that an increase in fees of more than \$5 is the most they could tolerate before they stop registering their works altogether.¹⁰

To be clear, this resistance to fee increases is not limited to individual creators. Particularly for high-volume applicants, small fee increases can quickly add up to very large total registration fees due to the volumes of works they would seek to register. Given the state of the economy today, *any* fee increase (whether it’s only a few dollars or more) will most definitely impact applicants of all sizes and types, including large companies. Budgets and headcounts are being slashed across the board in today’s economy, so any increase in registration application numbers may result in reduced filings, regardless of the size or revenue of the applicant. While larger companies may be better able to weather the impact of a fee increase, such increases have an adverse impact on *all* of those who pay application fees.

⁹ See 17 U.S.C. §708(b).

¹⁰ Copyright Alliance Comment Letter, *supra* note 5, at 19.

As we noted above and in our prior fee study comments, proper implementation of alternative fee structures and registration modernization updates should result in cost *savings* for the Office. And as we explain in section I(A), an increase in filings does not necessarily mean that the Office's expenses also increase. Automating repetitive administrative tasks and intake, responsibly deploying ethically-trained AI tools, adjusting examination time and workflows to maximize the value of experienced examiners (such as imposing time limits on registration examination for such examiners), and implementing other creative solutions and cost-savings measures, some of which we propose in these comments, would result in less correspondence with applicants, fewer applicant mistakes leading to improved filings over time, and faster examination processes that all work together to reduce the Office's costs. All improvements will be an instrumental part of ensuring alternative fee structures work for copyright registration applicants while also helping the Copyright Office achieve its cost recovery goals. We highly encourage the Office to explore and implement solutions or ideas that would introduce efficiencies that reduce its costs rather than simply raise fees or pass those costs onto applicants as the sole solution to rising expenses.

II. COPYRIGHT ALLIANCE'S PROPOSED ALTERNATIVE FEE STRUCTURES

In addition to responding to the four alternative fee proposals proposed by the Copyright Office in the NOI, the Copyright Alliance separately urges the Office to consider the following two alternative fee proposals.

A. Registration Fees for Single Units of Publication in Digital Form

We strongly urge the Copyright Office to implement a fee structure that supports the registration of digital works containing different types of copyrighted works in a single unit of publication through a single, streamlined application and payment process.

To be clear, this fee model is presently available for works in physical form. There appears to be no good reason that it should also not be available for works in digital form. Especially now where multimedia works in digital form are far more common, this registration fee option would

facilitate a more streamlined way of filing and paying to register potentially different types of works that are published as a single unit. This would reduce redundancies and inefficiencies.¹¹

For example, certain multimedia works incorporate different types of copyrighted works—like video games, which combine different elements of computer software, audiovisual works, musical works, and 2D artworks. A fee model which supports such multimedia works could be used to streamline the registration process by permitting these digital works to be registered in one application with one fee. For example, for video games this would mean registering all works associated with one game title at one time, including multiple platforms, music, and 2D design elements. Or for a record album, this would mean registering the album art along with the sound recordings and accompanying text. We urge the Copyright Office to extend the single unit of publication to permit the registration of digital works and enable applicants to pay a single fee. The Compendium should also be updated to remove the barriers currently posed by the requirement that the unit of publication be a physical bundle and clarify that digital works qualify for this registration option.¹²

B. Graduated Group Registration Fee Model

We strongly urge the Copyright Office to implement a graduated registration fee model for all group applications and to provide applicants with greater flexibility to register larger numbers of works in group applications. The way this model would work is that there would be a base fee for a group application that would be set for a certain amount of works. The applicant would pay additional incremental, graduated fees if the number of works in that group application exceeds the number of works established for that base fee. The goal of this fee model is to streamline the filing process for an applicant where they would otherwise have had to file multiple group registration applications for the same number of works. The net effect of such a fee model should

¹¹ See Recording Industry Association of America (RIAA), Comment Letter on Notice of Proposed Rulemaking regarding Copyright Office Fees at 4-5 (May 5, 2026), <https://www.regulations.gov/comment/COLC-2026-0001-0070>.

¹² See U.S. COPYRIGHT OFF., *COMPENDIUM OF U.S. COPYRIGHT OFFICE PRACTICES* § 1103.1(C) (3d ed. 2021).

not be to replicate a per-application fee structure through the accumulation of incremental charges. Instead, the fee schedule should be designed so that the registration fee per work declines as the number of works included in a group application increases.

In addition to scaling the fees based on the number, the fees should be prorated. For example, if the base fee corresponds to a maximum of X number of works in an application, and the applicant files an additional X number of works in one application, the total fee should not merely be double the base fee because the processing and examination of the application should take less time—and thus cost the Office less—since only one application, rather than multiples, will need to be processed.

III. COPYRIGHT ALLIANCE’S RESPONSES TO COPYRIGHT OFFICE’S PROPOSED ALTERNATIVE FEE STRUCTURES

A. Fees Differentiated by Type of Work

The Copyright Office proposes an alternative fee structure where it would charge different fees based on the type of work being registered. The Copyright Office states that this proposal is based on conclusions from the Library of Congress’ Federal Research Division (FRD) report that there are cost differences in examining registration applications for different types of works.¹³

The Copyright Alliance generally opposes this proposal for the following reasons:

- As we have noted in our Fee Study NPRM comments, there is scant information in this NOI or the NPRM on why it costs more to examine certain type of works than other types of works. In order to support a fee structure that is based on the type of work being registered, we would first need to have some understanding of *why* it costs more to examine certain types of works compared to other types of works and how consistent those expenses have been over time. For example, why do deposits for certain types of

¹³ LIBR. OF CONG., FED. RSCH. DIV., *U.S. COPYRIGHT OFFICE FY2025 FEE STUDY: COST ASSESSMENTS REPORT* 19-20 table 4 (2026).

works require data entry from higher GS-level employees and is that higher GS-level employee held to the same or higher productivity standard than a lower GS-level employee?¹⁴ Are certain examination costs high, such as those associated with examining textual works, because books, poems, and other traditional literary works are being categorized alongside software code? What factors account for the cost differences in examination for different types of works? Do these factors largely arise from the typical level of sophistication of applicants of particular types of works and if so, might some or all of those issues be resolved when the ECS registration system is launched? Are the higher examination costs due to certain works having inherent features that require more of the registration examiner's time or a greater level of expertise? How long have these cost differences existed? A few years? Decades? Has the Copyright Office considered ways or implemented practices to reduce costs and introduce efficiencies in its current workflow and processes? For example, maybe the reason that it costs more to examine a literary work is because higher GS-level examiners (who have higher salaries) are examining those applications. But what if those higher-grade examiners all retire and are replaced with lower-grade examiners? Would the cost to examine a literary work suddenly drop? These are just some of many factors that need to be considered used to demonstrate that we need to know much more about why certain types of applications cost more to examine before we can consider or agree with any fee alternative that is based on the type of work filed or the cost of examination for an application.

As we have said before, there is a considerable lack of information and explanation as to the factors that lead to the FRD Report's conclusions on cost assessments and why the report includes other costs that had historically been excluded from cost assessments, including costs unrelated to the Office's registration services.¹⁵ All of these explanations and analyses are critical for applicants to understand as users of the registration system to

¹⁴ *Cost Assessment Report*, *supra* note 13, at 19.

¹⁵ *See generally* Copyright Alliance Comment Letter, *supra* note 5, at 4-15.

provide more helpful solutions and views as to the proposed fee structures—especially if applicants are expected to shoulder some of these costs through fees.¹⁶ Having clarity about these factors would give us a better idea of what kinds of solutions could address the cross-subsidy and cost issues that the Copyright Office notes in the NOI.

- Since the proposal is based on concerns about the cost to the Office and not on the applicant’s ability to pay, any new fee structure that is based on type of work being registered could adversely impact the number and type of applications being filed with the Office. Typically, there will be little to no correlation between the type of work being filed and the ability of the applicant to pay the fee or the sophistication of the applicant. For example, (i) a registration application for an audiovisual work may be filed by a large movie studio that is very familiar with the registration process or a student filmmaker who is new to the process of registering a copyrighted work; or (ii) a group registration application for photographs can be filed by a renowned, highly paid photographer who has a greater ability to pay the registration fee and greater ability to hire a professional who understands the registration system to file on their behalf or an obscure, low-income photographer who has difficulty affording the registration fee and must file themselves even though they have a cursory understanding of the copyright registration process. This proposed alternative fee structure could discourage certain groups of creators and copyright owners from registering works and participating in the copyright system, which would also result in a poor copyright record that would be mostly comprised registration information of those who can afford the resources to register their works and have the knowledge base to easily register their works.

Ultimately, since the proposal is based on the type of work being registered, it could result in a reduction in the filing of certain types of registrations in which the financial and transaction cost to register those works is more than other works.

¹⁶ *Id.*

B. Differential Fees for Individuals and Organizations¹⁷

The Copyright Office proposes a fee structure that would vary fees depending on whether the author, claimant, and/or applicant is an individual or an organization. The language in the NOI seems to indicate that this proposal is meant to reduce financial burdens for individual creators and small businesses. We oppose a fee structure that differentiates fees simply based on the status of an individual versus an organization because it does not accurately measure the ability to pay as compared to the small entity fee proposal. A billionaire who registers a work would have great ability to pay, but in comparison a one-person photography business will have far less. For this reason (as we discuss below), we support the proposal for reduced fees for small entities, which would more directly and accurately address the needs of cost-sensitive applicants.

C. Reduced Fees for Small Entities

The Copyright Office proposes a fee structure that would offer lower or discounted fees for “small entities.” We generally support this proposal. Creating a small entity fee structure has the potential to more accurately and effectively distinguish between those applicants that can better afford the cost of registration and those that cannot. As such, qualification of this fee structure should mainly hinge on financial need. This proposal also limits the costs and burdens of providing financial and business information to a specific set of applicants who want to avail themselves of the lower fees.

When discussing the proposed small entity fee structure, the party being evaluated for small entity status eligibility should be the copyright claimant, as they are the owner of the copyright. Doing so would cover work-made-for-hire situations, assignments, and other instances where the author of the work is may not be the applicant or where an author or copyright owner has hired a third party such as a copyright registration service or a law firm to register on their (the author or copyright owner’s) behalf.

¹⁷ Addressing mostly NOI Question 1(b) and its subsections.

To determine whether an applicant qualifies for small entity status, the Office ought to mainly consider the gross revenue of the claimant (in the case of an organization) or the annual income of the claimant (in the case of an individual). If the Office places any requirements for applicants to provide evidence of income or revenue, those requirements should be as minimal and extremely clear and the process should be very easy for an applicant to complete. The last thing anyone wants to do is to create a new obstacle for applicants. While there may be other relevant factors that might be considered, like number of employees in the case of an organization, because there is unlikely to be a direct correlation between those other factors and the ability to pay, we do not believe that it is necessary for those other factors to be included.

While the patent and copyright systems have many differences, we believe the small and micro-entity options implemented successfully for many years by the U.S. Patent and Trademark Office (“USPTO”) could serve as a helpful starting point for the Copyright Office’s consideration of how a small entity fee structure should operate and how to determine financial need.¹⁸ Additionally, the NOI contains a few comments about a study showing minimal effects of the USPTO’s small entity fee on increasing patent registrations, but we do not think that study is applicable to the Office’s consideration of the small entity fee. As the Copyright Office notes in the NOI, unlike the patent registration system, the copyright registration system is wholly voluntary and is originally designed for the applicants, especially individual creators, to complete on their own without legal professional assistance. This means that the small entity fee has the potential to have a much larger impact than the similar fee structure in the patent system. Moreover, there is a significant difference in the fees charged by the USPTO and the Copyright Office, as well as many other differences in the two systems. Consequently, the results of that study should have little impact on whether the Office should implement a small entity fee structure.

The Copyright Alliance supports the proposed small entity alternative fee structure and reiterates that this designation should apply to copyright claimants.

¹⁸ See 37 C.F.R. § 1.27 (2026).

D. Subscription Pricing

The Copyright Office proposes a fixed subscription fee structure that permits users to file a certain number of applications within a prescribed period. We support the Office implementing a limited subscription-based fee model, particularly since it will incentivize high-volume applicants to register their works. An alternative fee structure and the technical specifications required to support a registration system that efficiently handles bulk submissions are not without precedent. The Copyright Office successfully conducted a limited pilot program for registration in 2017 where applicants bypassed the existing registration system to directly input registration information into the Office's existing registration system and submit multiple batches of claims instead of filing them separately.¹⁹ The Office's experiences from that pilot program should be leveraged as the Office designs and implements a fee structure and technical elements to support filings of large volumes of works.

Unlike the other proposed fee structures, a subscription-based model would be best-suited to meet the needs of applicants who need to frequently register their works, whose primary concerns are efficiency, convenience, and ease of registration. If implemented correctly, this fee structure would incentivize prolific creators in particular to register many (more) of their works by making registration easier and more expedient.

A subscription model would be beneficial for applicants because it will:

- encourage more routine filings from creators since they have paid a fee ahead of time and need only concern themselves with filing to register their works;

¹⁹ See Pilot Program for Bulk Submission of Claims to Copyright, 82 Fed. Reg. 21551, 21552 (May 9, 2017).

- lead to an increase in the volume of registration applications which contributes to the Copyright Office’s goal of developing a better copyright record and facilitating licensing and other productive transactions. An increased volume in copyright registrations advances the statutory objectives of the copyright registration system rather burdening it; and
- lower examination and administrative costs for the Copyright Office by enabling subscribers to use the same basic registration information across all applications, reducing duplication and administrative processing.

In its NOI, the Copyright Office provides some reasons as to why this fee structure may be inefficient. Most of these points are based on assessments of issues stemming from *the current copyright registration system* and we address a few of those points below:²⁰

- The Copyright Office notes that the marginal cost of examination is not close to zero. But this evaluation fails to consider that subscriber fees, with complementary technical features, could be tailored and designed to cover expected examination costs and reduce examination costs to help the Office with its cost recovery goals. As described in Section I(A) of this submission, the Copyright Office should follow the guiding principle of designing and implementing this fee structure with the priorities of its users in mind—mainly that the subscription model is making the registration process more efficient and convenient.
- The Copyright Office understates the administrative burden that would be lessened by a well-designed and implemented subscription model. With technical capabilities such as API, subscribers would have a far more streamlined and easier registration workflow that enables them to file registrations for numerous works. In looking for solutions to reduce

²⁰ Alternative Fee Structures for Registration, *supra* note 1, at 14728.

the Office’s costs and burdens associated with examining works registered through a subscription fee model, the Office could implement a “trusted filer” program where the Office forgoes or truncates the registration examination process for repeat applicants who have a proven track record of successfully registering their works.

- The Copyright Office indicates that if it were to adopt a subscription-based fee structure, it would probably not implement it until the ECS registration system is launched.²¹ While we generally agree with this approach, we also stress that the Office should implement any technical and regulatory updates and modernization efforts as soon as possible in the meantime to help reduce its costs, alleviate registration burdens for current applicants, and help the Office and applicants transition more smoothly into the new ECS registration system. We emphasize that since development of the ECS registration system is ongoing, now is the time to implement and create the system to have the technical capabilities to facilitate a subscription model. Subscription based billing structures are common, and the ECS registration system must have the technical capability to support such a model.

The following are a few characteristics we believe would be desirable in a subscription-based fee model:

- *Annual Basis:* The subscription should be renewable on a calendar year basis.
- *Based on Number of Works or Number of Applications Filed:* The subscription model should be based on the number of works or number of applications filed in the calendar year. To test out the subscription model and its capabilities, perhaps the Office could initially make this alternative fee structure available to applicants of current group registration options. This is because we anticipate that this fee structure would be most useful to prolific creators and copyright owners.

²¹ *Id.*

- *Pricing*: The structure could have diverse tiered pricing so that there are different price points that cover a certain number of works. This may offer flexibility for users to prevent instances of paying too much or too little relative to their filing activities. Having tiered pricing also gives the Copyright Office greater flexibility to adjust subscription pricing and capabilities to help the Office get closer to its cost recovery goals. Ultimately, a subscription-based fee model should lower costs for applicants and make copyright registration more economical for them—that is typically how subscriptions work.
- *APIs*: Implementing APIs will be crucial to the effectiveness and utility of this type of alternative fee structure. APIs enable applicants to expediently complete and file registration applications, which would make subscription fees that would cover those filings more economically attractive and useful for applicants.

These are several factors we believe should be built into a subscription-based model. We are ready to assist with any further discussion regarding specific characteristics of this fee structure that the Copyright Office may have in mind. Such a model would reduce applicant transaction costs, increase registration participation, improve the completeness of the public record, and provide the Copyright Office greater flexibility and room to adjust the fee structure to help with cost recovery goals. The question is therefore not whether subscription pricing can work, but how it can be designed and implemented to encourage more applications while ensuring the Copyright Office's internal operational and financial goals.

Other Questions Posed by the NOI

1. *Applicant Errors*

An applicant who pays the wrong fees should not be sanctioned by having their registration applications or the effective date of registration rescinded. A more appropriate remedial action that the Copyright Office could take is to levy a type of fine in the case where the errors were

intentional and fraudulent or simply require the applicant to pay the difference in cost between what they were supposed to pay and what they actually paid in other instances. In any event, the Copyright Office should never take remedial action that affects the validity or effectiveness of the registration application when the wrongful act is due an administrative shortcoming like the payment of the wrong registration fee.²²

Any incentives to misclassify or defraud the Office may already exist under the current registration system and are not likely to be exacerbated by the implementation of a new fee structure. For the proposed fee structure of reducing fees for small entities, the USPTO may have additional insights to share about their process of remedial actions when a party misclassifies themselves as a small or micro entity during the patent filing process.

Additionally, in *Unicolors, Inc. v H&M Hennes & Mauritz, L.P* the Supreme Court validated that Section 411(b)(1)(A) of the Copyright Act does not punish applicants when they make mistakes on their registration applications.²³ Similarly, an honest mistake with regard to the payment of a registration fee should not constitute grounds to refuse a copyright registration. Rather, the Office should simply afford the applicant the opportunity to correct such a deficiency. The consequences for defrauding the Copyright Office are clear under Section 411(b)(1)(A), namely that the copyright registration would be invalidated and key registration benefits would be rescinded. But an honest mistake does not constitute fraud. There is a simple solution to an incorrect payment of fees: Have the applicant pay the correct fee or, where the underpayment was intentional, impose a fine.

Conclusion

We appreciate the Copyright Office proposing and considering implementation of alternative fee structures to encourage and incentivize creators and copyright owners to register more of their

²² See Prioritizing Resources and Organization for Intellectual Property Act (“PRO-IP Act”) of 2008, Pub. L. No. 110-403, 122 Stat. 4256 (2008). This act codified the standard for invalidating copyright registrations based on fraud instead of immaterial registration errors.

²³ *Unicolors, Inc. v. H&M Hennes & Mauritz, L.P.*, 595 U.S. 178, 182 (2022).

works and to reduce the administrative barriers to the full enjoyment of their copyrights. To ensure a comprehensive and robust record, discussion, and brainstorming of alternative fee structures, complementary modernization and technical solutions, and cost assessment issues that will address the concerns and issues of all creators and copyright owners, we reiterate our request that the Copyright Office host and facilitate roundtable discussions or listening sessions to discussion improvements to the registration system. We look forward to providing more detailed insights and feedback on more specific proposals for alternative fee structures and providing any other insights to assist the Copyright Office meeting its goal of ensuring a copyright registration system that works for all creators and copyright owners.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'Keith Kupferschmid', written in a cursive style.

Keith Kupferschmid
CEO
Copyright Alliance
1331 F Street, NW, Suite 950
Washington, D.C., 20004

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