



The Register of Copyrights of the United States of America

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The Honorable John Conyers, Jr.
Ranking Member
Committee on the Judiciary
United States House of Representatives
2426 Rayburn House Office Building
Washington, DC 20515

March 23, 2015

Re: The U.S. Copyright Office: Its Functions and Resources
February 26, 2015

Dear Ranking Member Conyers:

I am writing to submit my views for the official record of the above-referenced hearing in accordance with your request.¹ Specifically, you asked me to respond to the testimony of the witnesses on the subject of “whether and how reorganizing the Copyright Office would benefit the copyright community.”² It is a privilege to assist you and Chairman Goodlatte as you evaluate these important questions. Thank you for the opportunity to do so.

For a number of reasons, my view as the current Register of Copyrights is that the Copyright Office requires congressional direction to meet the challenges and opportunities of the twenty-first century.³ I am assuming for purposes of this letter that the Judiciary Committee will be further deliberating on the issues discussed at the hearing, and I am assuming further that the Committee is likely to alter the status quo, in which all Copyright Office staff are part of the Library of Congress and the Librarian appoints, supervises, and may remove the Register and other subordinate officers. This framework was uniformly questioned by the Committee’s Members and rejected by all of the hearing’s witnesses, who

¹ *The U.S. Copyright Office: Its Functions and Resources: Hearing Before the H. Comm. on the Judiciary*, 114th Cong. (2015) (“2015 USCO Hearing”). Witnesses were Robert Brauneis (Professor, George Washington University Law School), Lisa Dunner (Partner, Dunner Law PLLC, on behalf of the American Bar Association Section of Intellectual Property Law), Keith Kupferschmid (General Counsel, Software & Information Industry Association), and Nancy Mertz (Partner, Schoeman Updike Kaufman & Stern LLP, on behalf of the American Intellectual Property Law Association).

² 2015 USCO Hearing, oral testimony at 1:07:21, available at <http://judiciary.house.gov/index.cfm/hearings?ID=517A06E1-2222-42C6-87B2-05D64633F62D> (statement of Rep. John Conyers, Jr., Ranking Member, H. Comm. on the Judiciary).

³ In arriving at the conclusions outlined in this letter, I consulted with my predecessor, Marybeth Peters, who served as Register of Copyrights from 1994-2010. She agrees with the views presented here, including restructuring the Copyright Office as an independent agency.

noted concerns about budget independence, administrative authority, and mission effectiveness.⁴

In light of these concerns, it would be helpful if Congress could decide the Copyright Office's organizational structure soon, so that both the Library and the Copyright Office know whether and how to plan for the capital projects the Copyright Office so sorely needs. As the Committee is aware, major technology investments must be routed through the Library's central departments and infrastructure, a paradigm that presents significant challenges for all involved. Moreover, the Library is under pressure to tighten its existing processes and controls in this area in order to further leverage economies of scale throughout the agency and adopt other "best practices" of the federal government.⁵ The combination of these developments makes rather pressing the question of whether the Copyright Office should continue to be subject to the Library's agency-wide goals.

⁴ During the hearing, Representative Nadler observed that, "[f]rom the witness testimony, I gather there's agreement that the Copyright Office as currently structured faces a variety of challenges in executing the basic functions stakeholders expect from it, and that it lacks independent budget and administrative authority. While the Copyright Office . . . has taken the initiative to address some of these challenges, only Congress can provide the resources and flexibility the Office needs to continue serving the public and Congress." *Id.* at 1:18:16 (statement of Rep. Jerrold Nadler, Member, H. Comm. on the Judiciary).

Additionally, Representative Issa asked the witnesses whether they believed that the Copyright Office is "structured to be efficient, nimble, modern, and progressive in a way that the twenty-first century would demand." *Id.* at 1:11:06 (statement of Rep. Darrell Issa, Member, H. Comm. on the Judiciary). The witnesses unanimously agreed "a hundred percent" that they did not believe it to be so structured. *Id.* at 1:11:18. Representative Deutch also expressed his concerns over the current structure, noting that "[i]t's time to enact a restructured, empowered, and more autonomous Copyright Office that's genuinely capable of allowing America to compete and to protect our citizens' property in a global marketplace." *Id.* at 1:36:40 (statement of Rep. Ted Deutch, Member, H. Comm. on the Judiciary).

Similar questioning took place at recent budget hearings. During the House Legislative Branch Subcommittee hearing on the Library budget, Ranking Member Wasserman Schultz asked whether the Copyright Office's "current structure and [its] budget . . . [is] sufficient for [the Copyright Office] to perform the duties that [it is] responsible for, meet the user community's concerns and their needs." *Fiscal Year 2016 Budget Hearing on the Architect of the Capitol and Library of Congress Before the H. Subcomm. on Legis. Branch of the H. Comm. on Appropriations*, 114th Cong., oral testimony at 1:13:56 (2015), available at <http://appropriations.house.gov/calendar/eventsingle.aspx?EventID=393997> (statement of Rep. Debbie Wasserman Schultz, Ranking Member, Subcomm. on Legis. Branch).

In the Subcommittee on the Legislative Branch of the Senate Appropriations Committee, Ranking Member Schatz stated that, while it did at one time make sense for the Library and the Copyright Office to share the same "roof," "reality has changed," he is "worried that the Copyright Office may be outgrowing its home within the Library of Congress," and the Library "may no longer be the right fit" for the Copyright Office. It is time, he recommended, to "reevaluate whether this fit . . . makes sense anymore." *FY16 Library of Congress & Architect of the Capitol Budget: Hearing Before the Subcomm. on the Legis. Branch of the S. Comm. on Appropriations*, 114th Cong., oral testimony at 51:57 (2015), available at <http://www.appropriations.senate.gov/webcast/legislative-branch-subcommittee-hearing-fy16-library-congress-architect-capitol-budget> (statement of Sen. Brian Schatz, Ranking Member, Subcomm. on the Legis. Branch).

⁵ At the request of appropriators, the Government Accountability Office has in recent months performed two audits involving information technology challenges in the Library and Copyright Office. GAO will publish its reports and recommendations, as well as agency responses, on or around March 31, 2015.

Although several alternative paths emerged at the hearing, my staff and I focused specifically on the long-term interests of the nation’s copyright system. We believe that these interests would be served best by establishing an independent copyright agency to administer the law, and by designating a leader that is appointed by the President with the advice and consent of the Senate. This would: provide a sound constitutional foundation for both new and existing copyright functions; ensure that Congress, federal agencies, and the public continue to benefit from the Copyright Office’s expert legal proceedings and impartial policy advice; and attract future qualified leaders able to interact at the highest levels of a modern government.

Eliminating Constitutional Challenges

Professor Brauneis’s testimony presents what he calls the “constitutional predicament” that is presented by the Copyright Office’s placement as a subordinate department of the national library.⁶ His statements highlight the somewhat unusual nature of the Library of Congress in the modern administrative state—the fact that it encompasses both purely executive functions (exercised through the Copyright Office and the Copyright Royalty Board) and purely legislative ones (exercised through the Congressional Research Service). This bifurcated structure has recently been subject to constitutional challenges in the courts.

The Department of Justice has defended against those challenges by concluding and asserting that the Library as a whole is within the executive branch, a view adopted in recent court decisions.⁷ As a legal construct, it has to be this way, because the Librarian of Congress is removable by the President alone and there is no particular congressional committee that has similar or shared supervisory authority over the Librarian. As Professor Brauneis notes, this conclusion runs counter to the assumption of many who “consider the Library of Congress to be part of the legislative branch of government.”⁸ The prospect that the President can assert plenary authority over the Library of Congress may be cause for concern for Members of Congress.⁹

More fundamentally for me, this confusion has the potential to compromise confidence in the copyright system at the very time we need to plan it forward. It is quite possible there will be further litigation involving the disposition of copyright functions and authorities,

⁶ 2015 USCO Hearing (written statement of Robert Brauneis at 9-15, *available at* http://judiciary.house.gov/_cache/files/4f8fc2a0-10de-4075-9b4b-26cbe1fle05c/revised-brauneis-testimony.pdf) (“Brauneis Statement”).

⁷ *See id.* at 10-12 (citing *Eltra Corp. v. Ringer*, 579 F.2d 294 (4th Cir. 1978); *Intercollegiate Broad. Sys., Inc. v. Copyright Royalty Bd.*, 684 F.3d 1332 (D.C. Cir. 2012)).

⁸ *Id.* at 9.

⁹ *Id.* at 12.

and it is also possible that the courts will weigh in with further decisions on this matter. It would be better for Congress to address the equities prospectively, namely, what is the best way to meet the overall objectives of the copyright law.¹⁰

Creating an Independent Agency

Many people, including Members of Congress, are surprised to find that the copyright system is currently accountable to the national library.¹¹ There are mounting operational tensions with this arrangement¹² and, as discussed at the hearing, a number of legal concerns.¹³ In considering the issues and the options, we have come to believe that the national copyright system would be better served by an independent copyright agency.

An independent agency would both solve the current administrative challenges and position the copyright system for future success. It would also recognize and continue the Copyright Office's extensive but impartial role in domestic and international affairs.

¹⁰ The appropriate organizational and reporting structure for the Library itself, aside from the copyright system, is beyond the purview of our analysis. When Congress created the position of Librarian in 1802, it specified that the Librarian was to be appointed by the President acting alone. Then, when Congress created the Copyright Office in 1897, it insisted on Senate confirmation of the Librarian to satisfy Appointments Clause requirements. John Russell Young was the first Librarian to be formally appointed in this manner.

¹¹ 2015 USCO Hearing, oral testimony at 2:16:23 (statement of Rep. Dr. Judy Chu, Member, H. Comm. on the Judiciary) (“I think most people are surprised when they learn that our nation’s Copyright Office is housed under the Library of Congress, because the missions are so different.”).

¹² As discussed at the hearing, information technology is governed according to central Library processes and priorities, although the Copyright Office’s needs are distinct. Copyright Office staffing allocations and pay are subject to the Library’s decisions and rules. The Library’s salaries for top officials throughout the agency are considerably lower than salaries for comparable positions in executive agencies, including for copyright officials at the U.S. Patent and Trademark Office.

¹³ As Lisa Dunner, speaking on behalf of the American Bar Association Section of Intellectual Property Law, noted, “there is an inherent conflict of interest in having the Library sign off on and control regulations formulated by the Office, especially since the Library, like other libraries, often takes position[s] on policy matters that are the subject of the Office’s studies and rulemaking proceedings.” *Id.* at 0:49:21; *see also id.* (written statement of Lisa Dunner at 9-10, *available at* http://judiciary.house.gov/_cache/files/9614a33b-39fd-4b57-b053-055362b611d4/dunner-testimony.pdf) (voicing concern over potential conflicts of interest regarding copyright issues).

This is not a new concern; instead it has been voiced by some in the copyright community for decades. *See, e.g., Copyright Reform Act of 1993: Hearing on H.R. 897 Before the Subcomm. on Intell. Prop. & Jud. Admin. of the H. Comm. on the Judiciary*, 103d Cong. 118 (1993) (statement of Steven J. Metalitz, Vice President & General Counsel, Information Industry Association) (“[W]e think it is time for Congress to consider severing the link between effective copyright protection and the acquisitions objectives of the Library. Those are important objectives, but we simply don’t feel that a creator’s right to obtain effective copyright protection should depend on how quickly he or she gives a free copy of the work, or two free copies of the work, to the Library of Congress.”); *see also* 2015 USCO Hearing (written statement of Keith Kupferschmid at 6-7, *available at* http://judiciary.house.gov/_cache/files/998864fa-c779-494d-998e-44859ec3911a/kupferschmid-siia-testimony.pdf) (stating that many newspapers no longer register their works because the Library continues to require microfilm copies when newspapers no longer use microfilm, thus making registration a financial and administrative burden).

Countless Members of Congress, the Department of Justice, the Department of State, the United States Trade Representative, the Department of Commerce and, most recently, the Intellectual Property Enforcement Coordinator, have turned to the Copyright Office to interpret and advise on copyright legislation, litigation, trade agreements, and treaties arising under the Copyright Act and related provisions of Title 17. An independent agency would be free to serve all branches of government without political restraint, including especially through expert studies and congressional testimony.¹⁴ It could lead, participate in, or analyze issues relating to a variety of international meetings and negotiations, not only assisting the President in representing the intellectual property interests of the United States, but also assisting Congress in assessing the impact and implementation requirements for domestic laws. And, an independent agency could ably carry out executive functions (such as registration and rulemakings) without the complications that arise from being organized in the Library and treated for certain purposes as a legislative branch entity.

As explored at the hearing, an independent copyright agency would also give Congress something it has never had before, a dedicated agency that is capable of absorbing more of the detail and administration of the copyright code.¹⁵ This is a considerable advantage for a law that is both critical to the economy and invariably complex, not only for individual members of the public, but also for the many authors, businesses, and public interest

¹⁴ We should recognize that, over the years, the Library has offered a form of shelter to the Copyright Office with respect to its legal work and policy analyses, and that multiple Librarians have exercised a largely hands-off approach with respect to this portion of the Register's portfolio. This deference helped the Copyright Office "to be an independent voice for ensuring balanced treatment of copyright-related matters." *The Omnibus Patent Act of 1996: Hearing on S. 1961 Before the S. Comm. on the Judiciary*, 104th Cong. 18 (1996) (statement of Marybeth Peters, Register of Copyrights, quoting a letter to Sen. Hatch from the library, book publishing, and scholarly communities) ("1996 Hearing"). The same result can be achieved by creating an independent agency, albeit one with greater responsibilities and safeguards appropriate to the digital age.

¹⁵ See, e.g., 2015 USCO Hearing, oral testimony at 1:19:56 (statement of Lisa Dunner) ("if the Copyright Office had more autonomy and was given more control over its own rules and regulations I think it would have great improvements to the Act . . . if the Copyright Office had the strongest voice where its rules and regulations were given more deference it would ultimately help to clear up the Act."); see also Sandra M. Aistars, *The Next Great Copyright Act, or a New Great Copyright Agency? Responding to Register Maria Pallante's Manges Lecture*, COLUM. J. L. OF L. & THE ARTS at 304 (forthcoming 2015) (entered into the 2015 USCO Hearing record by Rep. Nadler) (noting that "empowering an entity to exercise appropriate regulatory authority could serve an important role and reduce the need for and scope of legislative action").

The possibility of using regulations to improve copyright law has been considered since the beginning of the copyright review process, and before. See *The Register's Call for Updates to U.S. Copyright Law: Hearing Before the H. Subcomm. on Courts, Intell. Prop., & the Internet of the H. Comm. on the Judiciary*, 113th Cong. 35 (2013) (incorporating *The Next Great Copyright Act Manges lecture*) ("As more than one professor has noted, the Office has had very little opportunity to apply its expertise, leading Congress to write too much detail into the code on matters that are constantly changing, such as economic conditions and technology.").

organizations that must regularly navigate and apply it. Moreover, creating an independent agency does not necessarily preclude later steps, for example, congressional consideration of an Intellectual Property Office, along the lines of previous congressional thinking on this subject.¹⁶

Although the Copyright Office is a small operation and would be a rather small agency, we see this as a significant benefit. An independent agency configuration would allow the Copyright Office to operate in a lean and innovative manner that befits the innovative needs of the copyright system. The Copyright Office could control its own budget and apply its fees in a targeted manner that does not dilute its mission or statutory duties. It could also harness synergies from across the government. For example, in the federal government today, there is no reason that the Copyright Office could not share or purchase services from other agencies, including office space, financial systems, cloud services, and other needs. At the same time, the Copyright Office would be much better able to harness the considerable talents of the copyright community, particularly when investing in the enterprise architecture, data management strategies, and business-to-business services that copyright stakeholders require.

Congress is in an exciting situation here. It has an opportunity to position the Copyright Office to act nimbly and efficiently, and in doing so to facilitate the extraordinary digital economy of the United States. As the witnesses noted, a well-functioning Copyright Office that is able to effectively service its constituents would produce significant benefits to the United States, including by generating “a large number of new copyright transactions,”¹⁷ “more licensed projects,”¹⁸ and “increased registration[s].”¹⁹ In short, a “properly-functioning Copyright Office would be just a huge boon to the U.S. economy, to the creative community, and certainly to the public.”²⁰

Although the costs of a small agency are difficult to assess, they are surely manageable, especially when considered with the possibility of new fee models.²¹ At Congress’s direction, my staff and I would be pleased to create and submit a summary of other financial considerations. Otherwise, at this very early stage in the discussion, we would

¹⁶ See Omnibus Patent Act of 1996, S. 1961, 104th Cong. (1996) (legislation that would have established a single government corporation to formulate policy and administer patents, trademarks, and copyrights). Senator Hatch stated that it would be difficult to increase the Copyright Office’s executive powers, given its current “anomalous position in the legislative branch.” 1996 Hearing, at 2 (statement of Sen. Orrin Hatch, Chairman, S. Comm. on the Judiciary).

¹⁷ 2015 USCO Hearing, oral testimony at 1:34:30 (statement of Robert Brauneis).

¹⁸ *Id.* at 1:34:42 (statement of Nancy Mertz).

¹⁹ *Id.* at 1:35:04 (statement of Lisa Dunner).

²⁰ *Id.* at 1:35:17 (statement of Keith Kupferschmid).

²¹ *Id.* at 1:04:39 (witnesses discussing potential fee differentiation).

observe that any new plan should accomplish three things: (1) it should codify Congress’s decision regarding leadership and reorganization; (2) it should include an effective date for any change as well as a transition period for operations; and (3) it should require agency leaders to commission and present short-term and long-term priorities and investment justifications, including on such issues as office space, data centers, staffing priorities, and urgent IT expenditures.²² We know that other agencies and businesses in the copyright and technology sectors, which are extraordinarily talented and forward-thinking, have already expressed an interest in helping and would be invaluable to leaders undertaking these processes.

Creating a Sub-Agency

Some have suggested that the Register could be a Presidential appointee within a sub-agency of the Library of Congress. This approach would be an improvement over the current structure. For example, it would help with certain accountability issues,²³ and it would presumably provide the Register with more of a voice in appropriations requests, technology investments, and other management decisions that affect Copyright Office staff. However, this model would leave other concerns unresolved. The Librarian would remain the constitutional head of the agency and the copyright system, and the Register would not necessarily have autonomy over copyright policy and regulations.²⁴ The Register also would not be able to appoint inferior officers—for example, judges on a small copyright claims court, if Congress decided to create such a body—because the Register would not be considered a Head of Department for purposes of the Appointments Clause.²⁵ These positions would instead be accountable to the Librarian, and, perhaps more to the point, it would unambiguously make the Librarian, and therefore the entire Library of Congress, part of the executive branch.

²² The question of funding has arisen throughout congressional discussion of the Copyright Office, with Members stating that the Copyright Office should be fully funded. *See, e.g., U.S. Copyright Office: Hearing Before the Subcomm. on Courts, Intell. Prop., & the Internet of the H. Comm. on the Judiciary, 113th Cong. 25 (2014) (“2014 USCO Hearing”)* (statement of Rep. John Conyers, Jr., Ranking Member, H. Comm. on the Judiciary) (“And most importantly, a strong copyright system requires that we fully fund the Copyright Office, and in that regard the Chairman of this Committee, Bob Goodlatte, joins me in supporting that idea.”). More specifically, Members have inquired about the need for funds for the Copyright Office’s IT needs, including the scope of necessary funding. *See, e.g., id.* at 44 (statement of Rep. Jerrold Nadler, Ranking Member, Subcomm. on Courts, Intell. Prop., & the Internet).

²³ 2015 USCO Hearing, oral testimony at 1:21:36 (statement of Keith Kupferschmid) (noting that a presidential appointment would help with transparency and accountability).

²⁴ Lisa Dunner, speaking on behalf of the American Bar Association Section of Intellectual Property Law, observed that the “Librarian’s broad authority over Copyright Office functions is problematic on multiple levels,” including because the Librarian need not be a copyright expert. *Id.* at 0:49:11.

²⁵ *See, e.g., Intercollegiate Broad.*, 684 F.3d 1332 (discussing Appointments Clause issues, including that Heads of Departments may appoint inferior officers).

In general, Congress could indicate its preference that the Library remove the sub-agency from central Library priorities and workloads, especially if these would present a legal or practical conflict, *i.e.*, participating in Library committees regarding acquisitions strategies or budget needs. This would be helpful because Copyright Office staff are frequently called upon to support the Library's broader mission, including participating in agency-wide protocols and projects that have little to do with administering the Copyright Act.

Nonetheless, in a sub-agency, it would still be the case that the Librarian could, in his or her discretion, exert influence or control over the Register's management or policy decisions. This is not necessarily an unusual dynamic within large or cabinet-level agencies, but in this case, where the Librarian's primary duty is always going to be the agency's mission as a library, it would be difficult for Congress to protect against either a real or potential conflict of interest.²⁶ Congress could not enact a legal wall between the two parts of the agency, as is sometimes done to deal with potential conflicts of interest within an institution, because this would effectively remove the Librarian from the very role he or she is constitutionally responsible for as the agency head. It is therefore difficult to imagine how a sub-agency would stabilize or solve the current problems for very long.

Considering the Department of Commerce

Although witnesses spoke against the possibility²⁷ and the Copyright Office does not recommend it, Congress could relocate the Copyright Office to the Department of Commerce as a sibling to the U.S. Patent and Trademark Office. This would ameliorate constitutional concerns and combine the administration of intellectual property laws under one roof. Congress would need to be clear about the longstanding policy role of the Register, which otherwise could be compromised or even eliminated, as the case may be, depending on how reporting lines are established.

²⁶ Although the Librarian serves at the pleasure of the President, Librarians have enjoyed lengthy careers and tenures in modern times. Current Librarian of Congress James H. Billington was appointed in 1987 by President Reagan, and former Librarian Lawrence Quincy Mumford served from 1954-1974. Additionally, while the President has the power to remove the Librarian, this has happened only rarely. See *About the Librarian, Previous Librarians of Congress, George Watterston and John Silva Meehan*, available at <http://www.loc.gov/about/about-the-librarian/previous-librarians-of-congress/george-watterston/> and <http://www.loc.gov/about/librarianoffice/meehan.html> (upon election to the presidency, both President Andrew Jackson and President Lincoln removed the Librarian of Congress).

²⁷ See 2015 USCO Hearing, oral testimony at 2:25:23 (statement of Rep. Hakeem Jeffries, Member, H. Comm. on the Judiciary) (asking whether placing the Copyright Office within the Department of Commerce or combining it with the U.S. Patent and Trademark Office would present "incompatibility problems"); *id.* at 2:25:52 (statement of Nancy Mertz) (noting that placing the Copyright Office in the Department of Commerce or incorporating it into the U.S. Patent and Trademark Office "feels a little bit like back to the future because it came up twenty-two years ago," and further noting that patents, trademarks, and copyrights have very different legal schemes, and combining them would cause funding challenges).

On a different point, Congress would want to consider whether the copyright law itself would be lost or compromised in an agency as large as Commerce—specifically whether administrative and policy priorities would be subsumed. And, while Congress (and for that matter the Department of Justice) would still have access to a Copyright Office located in the Department of Commerce, the Copyright Office’s views would not be independent. Rather, its policy advice and legal interpretations would be subject to the coordination, clearances, and, as applicable, restraints that are normal for executive branch officials. This would fundamentally change the role the Copyright Office has always played in the copyright system generally and with Congress specifically.²⁸ Additionally, as former Register Marybeth Peters noted when testifying two decades ago, copyright law and policy go beyond promoting commerce and, indeed, have “a unique influence on culture, education, and the dissemination of knowledge,” and “may be slighted if . . . wholly determined by an entity dedicated to the furtherance of commerce.”²⁹

Honoring the Library of Congress

We would also make a point that was not raised at the hearing. An independent agency would ensure the most flexibility to continue the Copyright Office’s relationship with the Library of Congress, which is the beneficiary of mandatory deposit provisions administered by the Register as well as certain works submitted by authors and other copyright owners for registration purposes. Although both of these provisions must be recalibrated for the digital age, we can assume that they will continue to exist in some form. The Register and the Librarian will therefore need to continue to work together on regulatory parameters and practices, either informally or through statutorily mandated committees or consultations.³⁰ At the core, what we are recommending is that Congress codify the structure that many assume to be the case already, by conferring independent agency

²⁸ “Among other key duties, the Register serves as the principal adviser to Congress on matters of copyright law and policy.” 2014 USCO Hearing, at 27 (statement of Rep. Howard Coble, Chairman, Subcomm. on Courts, Intell. Prop., & the Internet). The Copyright Office “provides expert copyright advice to Congress . . . and the Office recommends much-needed improvements to the copyright system based on its research and analysis.” 2015 USCO Hearing, oral testimony at 0:32:43 (statement of Rep. John Conyers, Jr., Ranking Member, H. Comm. on the Judiciary).

²⁹ 1996 Hearing, at 19, 24 (prepared statement of Marybeth Peters, Register of Copyrights).

³⁰ Congress has already created statutory relationships between the Copyright Office and other federal entities. For example, the Undersecretary of Commerce for Intellectual Property (who is also the Director of the U.S. Patent and Trademark Office), a Senate-confirmed advisor to the President on intellectual property, must by law “consult with the Register of Copyrights on all copyright and related matters.” 35 U.S.C. § 2(c)(5) (2014). Likewise, the Register serves as a statutory advisor to the Intellectual Property Enforcement Coordinator, a Senate-confirmed position that was created by Congress in 2008 and is in the Executive Office of the President. 15 U.S.C. § 8111(a), (b)(3) (2014).

status on the Copyright Office and making it a partner with, rather than a subordinate to, the Library.

The Library, of course, is a singularly important bibliographic institution known around the world for its unparalleled collections, curators, and scholars. Many Librarians and many Registers over the years have worked together appropriately and respectfully, to the mutual benefit of the public. Concerns about how to position the Copyright Office for the digital age certainly should not be framed as criticism of the Library. These issues more aptly reflect the unprecedented importance and complexity of the copyright law in modern times.

Conclusion

My staff and I are indebted to the Committee for its timely attention to the nation's copyright system, including the United States Copyright Office. It is a privilege to assist with the forward-thinking questions you are exploring and addressing. At your request, we would be pleased to provide additional documentation or analysis in support of the operational and policy views expressed above.

Respectfully,



Maria A. Pallante
Register of Copyrights and Director
U.S. Copyright Office

cc: Hon. Bob Goodlatte
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