
ADMINISTRATIVE DEVELOPMENTS**LIBRARY OF CONGRESS**

Copyright Office Releases Report on Section 512. The U.S. Copyright Office today released its Report, Section 512 of Title 17, a multi-year study of § 512 of the U.S. Copyright Act, which is part of the Digital Millennium Copyright Act (DMCA). When it enacted § 512 in 1998, Congress designed its safe harbors to provide “strong incentives for service providers and copyright owners to cooperate to detect and deal with copyright infringements that take place in the online networked environment.” The Report examines whether the balance that Congress sought has been achieved, particularly in light of the enormous changes that the internet has undergone in the last twenty-plus years. The Report, the last in a series of studies requested in a prior congressional session, represents the final output of the Office on topics related to the 2013–15 copyright review hearings held by the House Judiciary Committee.

The Copyright Office concludes that the operation of the § 512 safe harbor system today is unbalanced. In its examination of the balance established by Congress, the Office outlines five principles that guided its review, identifies its findings, and makes several recommendations for Congress to consider. The Report highlights areas where current implementation of § 512 is out of sync with Congress’ original intent, including: eligibility qualifications for the service provider safe harbors; repeat infringer policies; knowledge requirement standards; specificity within takedown notices; non-standard notice requirements; subpoenas; and injunctions. While the Office is not recommending any wholesale changes to § 512, the Report points out these and other areas where Congress may wish to consider legislation to rebuild the original balance between rightsholders and online service providers.

The Report also identifies non-statutory areas of untapped potential to increase the efficacy of § 512 and recommends additional stakeholder and government focus in the areas of education, voluntary cooperation, and the use of standard technical measures. Finally, it provides background information on several proposals submitted by Study participants on approaches that go beyond the original construct of the DMCA, but does not provide a recommendation with respect to those proposals. The Office believes additional study and consultation would be needed before moving forward with such proposals. The full report, along with the extensive public comments, empirical studies, and roundtable transcripts, is available on the Copyright Office’s website

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Copyright Office Issues Final Rule Relating to Group Registration of Newsletters. The U.S. Copyright Office has published a final rule that amends its regulations for the group registration of newsletters, effective June 29, 2020. The previous regulations required that newsletters be published at least twice a week to qualify for this option. To accommodate less-frequently published newsletters, the new rule permits publishers to register a month of newsletters with one application and filing fee, even if the newsletter is published as infrequently as twice a month. The rule also updates the address where complimentary subscription copies should be sent for purposes of satisfying the mandatory deposit requirement. For more information, visit the Office's website.

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Sovereign Immunity Study: Notice and Request for Public Comment, 85 Fed. Reg. 34252-56.

The U.S. Copyright Office is initiating a study to evaluate the degree to which copyright owners are experiencing infringement by state entities without adequate remedies under state law, as well as the extent to which such infringements appear to be based on intentional or reckless conduct. The Office seeks public input on this topic to assist it in preparing a report to Congress. Written reply comments and empirical research studies must be received no later than 11:59 p.m. eastern time on October 2, 2020.

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Copyright Office Proposes Update to MMA Transition Period Regulations for Transfer and Reporting of Royalties to the Mechanical Licensing Collective. Pursuant to the Musical Works Modernization Act, title I of the Music Modernization Act (MMA), the U.S. Copyright Office is proposing to amend its regulations pertaining to cumulative statements of account required to be submitted by digital music providers to the mechanical licensing collective, for such providers to qualify for the statutory limitation on liability for unlicensed uses of musical works prior to the license availability date.

The Office previously made a technical implementation of the MMA to conform its regulations to account for new statutory requirements, including for cumulative statements of account. As part of its ongoing efforts to implement the MMA, the Office provided another opportunity for the public to comment on these regulations. Following consideration of these comments and separate comments related to monthly reporting that will be required of digital music providers, the Office now proposes to update

the cumulative statement of account requirements to with respect to the information, format, and delivery of these statements submitted to the mechanical licensing collective. Written comments had to be received no later than August 17, 2020, at 11:59 p.m. eastern time.

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Regulation Concerning Proxy Distributions for Unmatched Royalties Deposited During 2010–2018, 85 Fed Reg. 32323-24. The Copyright Royalty Judges are proposing to amend their regulations concerning proxy distributions for unmatched royalties deposited pursuant to statutory license for the period 2010 through 2018.

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Adjustment of Cable Statutory License Royalty Rates, 85 Fed Reg. 34467. The Copyright Royalty Judges (Judges) announce the commencement of a proceeding to adjust the rates for the cable statutory license described in section 111 of the Copyright Act. The Judges also announce the date by which a party who wishes to participate in the proceeding must file its Petition to Participate and pay the \$150 filing fee.

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37 CFR Part 360. Procedural Regulations of the Copyright Royalty Board Requiring Electronic Filing of Claims, 85 Fed. Reg. 37752-53. The Copyright Royalty Judges (Judges) adopt amendments to regulations governing the filing of claims to royalty fees collected under compulsory license to require that all claims be filed electronically through the Copyright Royalty Board's (CRB) electronic filing system (eCRB).