

The Honorable Maria A. Pallante  
Register of Copyrights  
U.S. Copyright Office  
101 Independence Avenue, SE  
Washington, DC 20559-6000

*Re: Comments to the Copyright Office on Notice of Inquiry Regarding “Reengineering of Recordation of Documents” 79 Fed. Reg. 2696 (January 15, 2014; Docket No. 2014–1)*

Dear Register Pallante:

Creative Commons is pleased to offer the following comments concerning the U.S. Copyright Office Notice of Inquiry regarding “Reengineering of Recordation of Documents” published in the January 15, 2014 issue of the Federal Register, 79 Fed. Reg. 2696.

Creative Commons (<http://creativecommons.org>) is a 501(c)(3) nonprofit corporation dedicated to making it easier for people to share their creative works, and allow others to build upon those works, consistent with the rules of copyright. Creative Commons develops legal and technical tools used by individuals, cultural, educational, and research institutions, governments, and companies worldwide to grant permissions for sharing and innovation that would otherwise be prohibited where the default rules of copyright apply.

One stated objective of the Office in this Inquiry is to identify incentives to increase the number of rights holders taking advantage of the recordation process. Consistent with this objective the Office should fundamentally support methods and processes aligned with 21<sup>st</sup> century digital and networked environments.

Creative Commons provides users the ability to apply a non-exclusive, public license to their creative works. Users can do this by visiting the Creative Commons website or by using the built-in licensing mechanisms popular on many sites such as Flickr or YouTube. Key features of CC licenses are that they are easy to choose, easy to apply, and easy to understand. Licensors are sharing their works on terms that are more open than the “all rights reserved” default, and doing so for free. Many of these CC licensors would see little value in completing all the requirements of the system (including payment of fees) in order

to record information about a work to which they are already communicating the rights to via the license.

But, if the Copyright Office wishes to increase the diversity and number of users leveraging the recordation system, it should meet the users where they are by providing a simple—and inexpensive (or free)—online system to do so. Currently, there is no registry of CC licensed works, or works in the public domain using CC’s public domain tools). Creative Commons simply provides the licenses—users do not register their works with CC. Thus, the hundreds of millions of CC-licensed works that are published on the web are not a part of a registry except for service-specific registries such as Flickr. (Flickr tracks which—if any—CC license a user applies to their uploaded photos).

If the Copyright Office were to make it easy and free(r) for more users to record the CC license they applied to their work—or dedications to the public domain under CC0 (<https://creativecommons.org/publicdomain/zero/1.0/>)—then the Office recordation registry might come to be a destination site for users who wish to look up licensing information on a large corpus of content. By integrating additional rights information via appropriate and specific input fields with their submission, the Copyright Office would support the discovery, dissemination, and use of copyrighted works as the copyright holder intends, and provide a useful mechanism for users to communicate the rights they wish to grant to the public to their copyrighted works. Further, the Copyright Office could even allow for a unique digital identifier—such as a static URI—that links to the license applied to the work, instead of requiring a physical copy of the text of the Creative Commons license or public domain dedication language.

The Copyright Office recordation fees are prohibitively high for many rights holders, so most simply do not consider recording transfers, non-exclusive licenses, public domain dedications, or other instruments pertaining to a copyrighted work. The recordation function reinforces an inherent (if unintentional) bias against those without the means to pay required fees, and the Office is limiting the completeness of the public record. The Copyright Office should consider waiving the recordation fees for users who wish to provide a public benefit by granting free, open access to their works (or waiving all rights to their creative works by placing it in the public domain).

If the Copyright Office itself is not able to integrate such rights information within its records database, it should consider supporting—or at least making it possible—for other organizations or projects to extend to the recordation system to make it easy and free for privately supported databases to share information about public domain and openly-licensed works, and for these works to be locatable through or connected with the Copyright Office. A federated system of interoperable databases could be networked or collaboratively created and maintained, with the Copyright Office being welcome to include in its own system such works as meet its standards for sufficient and reliable provenance. There are several organizations that might be interested in developing and maintaining such a system, including groups like the Digital Public Library of America or the Internet Archive.

If the Office wishes to encourage rights holders to record information about copyrighted works, it should also think about how to incent unorthodox rights holders (such as rights holders that wish to share!) in ways that will be easy and affordable to them. The advantages are clear for both the Office and the public. The Office will be able to create a more complete public record of rights information on a wider range of copyrighted content. And the public will be able both to better communicate rights information about content that is meant to be shared broadly, and also discover their rights to reuse licensed or public domain works.

We'd be happy to answer any other questions you have.

Respectfully submitted,

Creative Commons