



Copyright Office

[Docket No. 2026-3]

Alternative Fee Structures for Registration

AGENCY: U.S. Copyright Office, Library of Congress.

ACTION: Notice of inquiry.

SUMMARY: The U.S. Copyright Office is initiating this inquiry to collect information regarding alternative fee structures that could be adopted once its updated electronic registration system is fully operational. The information will be used to study the feasibility of alternative fee structures, their impact on participation in the registration system, and the potential economic effects. This inquiry is separate from the Office's pending rulemaking proceeding instituted on March 20, 2026 to update fees within the current fee structure.

DATES: Written comments must be received no later than 11:59 p.m. Eastern Time on [INSERT DATE 90 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES:

Submission of written comments: For reasons of governmental efficiency, the Copyright Office is using the *regulations.gov* system for the submission and posting of public comments in this proceeding. All comments are therefore to be submitted electronically through *regulations.gov*. Specific instructions for submitting comments are available on the Office's website at <https://www.copyright.gov/policy/altfeestudy>. If electronic comment submission is not feasible due to lack of access to a computer or the internet, please contact the Office using the contact information below for special instructions.

Submission of business confidential information: Any submissions containing business confidential information must be marked "confidential treatment requested" and

submitted through [regulations.gov](https://www.regulations.gov). Submitters should provide an index listing the document(s) or information they would like the Office to withhold. The index should identify the confidential document(s) by document number(s) and document title(s) and should identify the confidential information by description(s) and relevant page number(s) and/or section number(s) within a document. Submitters should provide a statement explaining their grounds for requesting nondisclosure of the information to the public as well. The Office also requests that submitters of business confidential information include a non-confidential version (either redacted or summarized) that will be posted on *regulations.gov* and available for public viewing. In the event that the submitter cannot provide a non-confidential version of their submission, the Office requests that the submitter post a notice on the docket stating that they have provided us with business confidential information. Should a submitter fail either to docket a non-confidential version of their submission or to post a notice that they have provided business confidential information, the Office will note the receipt of the submission on the docket with the submitter's organization or name (to the degree permitted by law) and the date of submission.

FOR FURTHER INFORMATION CONTACT: Rhea Efthimiadis, Assistant to the General Counsel, by email at mefi@copyright.gov or telephone at 202-707-8350.

SUPPLEMENTARY INFORMATION: The Copyright Office is in the midst of a comprehensive project to update its technological infrastructure. This project, the Enterprise Copyright System (“ECS”), is expanding access to the Office’s services in furtherance of its strategic objective of “Copyright for All.”¹ A major component of ECS

¹ See U.S. Copyright Office, Strategic Plan 2022–2026 Fostering Creativity and Enriching Culture 4 (2022) (“Strategic Plan 2022”), <https://www.copyright.gov/reports/strategic-plan/USCO-strategic2022-2026.pdf>.

is a new registration system (“ECS Registration”), which will make the statutory benefits of registering works of authorship more accessible.

Currently, most copyright owners use the Standard Application, which allows registration of a single work for a set fee. The Office has also introduced an increasing number of group registration options that allow multiple works to be registered with one application and one filing fee, effectively reducing the per-work fee for certain types of works.² While many copyright owners have taken advantage of these options, some have also urged the adoption of alternative fee structures to further minimize or eliminate perceived barriers to registration.

Over the past few years, the Office has acknowledged these proposals and expressed the intent to consider them once the necessary technological capabilities are in place.³ At this stage in the development of ECS Registration, the Office seeks to evaluate the feasibility of adopting any of the proposed fee mechanisms. This entails an analysis of their potential economic impact on the revenue that the Office receives from registration fees and the costs of administering the registration system. As we have affirmed in the context of the pending fee study,⁴ our goal is to enhance access to the copyright registration system, growing a robust record of copyright ownership. To that end, this notice of inquiry solicits information about copyright owners’ current registration practices and how alternative fee structures might affect those practices. The Office will use the information provided to study the potential economic impact of

² See, e.g., Group Registration of a Two-Dimensional Artwork, 90 FR 59383, 59387 (Dec. 19, 2025) (noting that group registration of 2D artwork will “effectively reduce[] the per-work cost of registration by half”); see also 37 CFR 202.3(b)(5), 202.4(c)–(k), (m), (o) (group registration options for unpublished works, news websites, newspapers, newsletters and serials, unpublished and published photographs, contributions to periodicals, secure test items, works on an album of music, short online literary works, and database updates).

³ See Group Registration of Photographs, 83 FR 2542, 2545 (Jan. 18, 2018) (explaining that in response to proposals for “a tiered filing fee” or “a sliding-scale subscription model” that “the current registration system is not capable of supporting th[ese] type[s] of [] fee structure[s]”).

⁴ See Copyright Office Fees, 91 FR 13529, 13532 (Mar. 20, 2026).

alternative fee structures, which in turn will inform plans for further development of ECS Registration and funding strategies to be considered in future fee studies.

I. Background

A. The Office’s Fee-Setting Authority

The Copyright Act requires the Office to collect fees to cover the costs of certain services, including registration of copyright claims. The Register may “adjust fees” by regulation “to not more than that necessary to cover the reasonable costs incurred by the Copyright Office for [its] services.”⁵ The process for modifying fees entails studying the costs that the Office incurs in providing services and submitting a proposed fee schedule, along with an economic analysis, to Congress.⁶ As part of this process, the Office recently published a notice of proposed rulemaking seeking public comment on proposed adjustments to its fee schedule for certain fee-based services.⁷

Section 708 of the Act requires that registration fees “be fair and equitable and give due consideration to the objectives of the copyright system.”⁸ One such objective is to “encourage the production of original literary, artistic, and musical expression for the good of the public.”⁹ The Office also seeks to encourage the public’s use of our services. One way that the Office promotes these objectives is by charging higher fees for some services—albeit less than the actual costs incurred—in order to offer lower fees for other

⁵ 17 U.S.C. 708(b)(2).

⁶ *Id.* at 708(b)(5).

⁷ 91 FR 13529.

⁸ 17 U.S.C. 708(b)(4).

⁹ *Fogerty v. Fantasy, Inc.*, 510 U.S. 517, 524 (1994); *see also* Strategic Plan 2022 at 4 (“The Office’s core services of registration, recordation, and statutory licensing play an important role in expanding culture and knowledge, supporting the ability to protect and exploit creative works while facilitating their dissemination through licensing and other lawful uses, here and abroad.”).

services to promote participation in the copyright system.¹⁰ While the Register has broad discretion to set fees,¹¹ she cannot waive them except in limited circumstances.¹²

In sum, the Act requires that any proposed fee changes balance reasonable cost recovery against the effect on the use of the registration system. Economic analysis is therefore critical in setting fee schedules, including any potential changes to accommodate alternative fee structures.

B. Past Consideration of Alternative Fee Structures

While the Office has not previously conducted a comprehensive analysis of alternative fee structures, we have received comments on such structures in prior proceedings. In 2018, the Office published a notice of inquiry seeking input on registration topics, including whether we should implement a “dynamic pricing model” or offer a subscription service.¹³ In response, some commenters suggested that the Office consider an annual subscription option for high-volume creators to register works in bulk.¹⁴ Some supported tiered registration fee structures based on the number of works.¹⁵ Another proposal was to introduce tiered registration fees that would distinguish between

¹⁰ See H.R. Rep. No. 105-25, at 8 (1997).

¹¹ See Pub. L. No. 105-80, 111 Stat. 1529, 1532 (1997); H.R. Rep. No. 105-25, at 16.

¹² See 17 U.S.C. 708(c) (permitting fee waiver for federal agencies and employees “in occasional or isolated cases involving relatively small amounts”); *id.* at 708(e) (establishing fee waiver mechanism for winners of high school art competition sponsored by the Congressional Institute).

¹³ See Registration Modernization, 83 FR 52336, 52339 (Oct. 17, 2018).

¹⁴ Coalition of Visual Artists, Comments Submitted in Response to U.S. Copyright Office’s Oct. 17, 2018, Registration Modernization Notice of Inquiry (“2018 Registration Modernization NOI”) at 23 (Jan. 15, 2019); ImageRights 2018 Registration Modernization NOI Comments at 4 (Jan. 15, 2019); Shaftel & Schmelzer 2018 Registration Modernization NOI Comments at 8–9 (Jan. 11, 2019).

¹⁵ See Coalition of Visual Artists 2018 Registration Modernization NOI Comments at 23 (Jan. 15, 2019) (proposing “[t]iered pricing [that] could be set at different levels (e.g. 1-50, 51-500, 501-1000, 1,000+, etc.)” as “lower fees for creators registering fewer works would help many creators keep their registration cost-per-work more reasonable and encourage more registrations”); see also Coalition of Visual Artists, Comments Submitted in Response to U.S. Copyright Office’s Dec. 1, 2016, Group Registration of Photographs Notice of Proposed Rulemaking at 59 (Jan. 30, 2017) (“The Copyright Office could create tiered registration fees for specific quantities of images included in a group registration.”).

individual authors, small businesses, and large corporate rightsholders.¹⁶ Commenters repeated these proposals in 2022 in comments for the Office’s deferred examination study,¹⁷ in which we considered the potential effect of a deferred examination option that would permit partial registration applications at a significantly discounted fee.¹⁸

The Office previously expressed the intent to study these proposals further.¹⁹ In order to do so, additional information is essential to perform the necessary economic analysis for sound, data-driven policy decisions.²⁰ This inquiry therefore seeks empirical evidence about how different fee structures would influence applicants’ registration practices and affect the Office’s costs. Because any new fee structure would be implemented in ECS Registration once it is in production, we are initiating this process

¹⁶ See Shaftel & Schmelzer 2018 Registration Modernization NOI Comments at 9–12 (Jan. 11, 2019). The Office previously studied price differentiation between single authors and larger copyright owners, and implemented a registration option that offered lowered fees for an individual author-claimant registering a single work. See Single Application Option, 78 FR 38843 (June 28, 2013); U.S. Copyright Office, Proposed Schedule and Analysis of Copyright Fees to Go into Effect on or About April 1, 2014 1, 7–8 (Nov. 14, 2013); U.S. Copyright Office, Analysis and Proposed Fee Schedule to Go into Effect July 1, 1999 iv (Feb. 1, 1999). Because few copyright owners have used this option, the Office is proposing to eliminate it as part of the proposed fee schedule. See 91 FR 13529, 13533–34.

¹⁷ Three comments expressed support for subscription pricing. See Coalition of Visual Artists, Comments in Response to U.S. Copyright Office’s Dec. 10, 2021, Deferred Registration Examination Study Notice of Inquiry (“Deferred Registration Examination NOI”) Comments at 21–22 (Jan. 24, 2022); Shaftel & Schmelzer Deferred Registration Examination NOI Comments at 21–22 (Jan. 22, 2022); Copyright Alliance Deferred Registration Examination NOI Comments at 3, 5–6, 32 (Jan. 24, 2022). Five comments supported tiered pricing that differentiates between individuals, small businesses, and large corporations. See Copyright Alliance Deferred Registration Examination NOI Comments at 3, 31; Shaftel & Schmelzer Deferred Registration Examination NOI Comments at 22–25; AIPLA Deferred Registration Examination NOI Comments at 6 (Jan. 24, 2022); Assoc. of Med. Illustrators Deferred Registration Examination NOI Comments at 6, 8 (Jan. 24, 2022); Coalition of Visual Artists Deferred Registration Examination NOI Comments at 20.

¹⁸ See U.S. Copyright Office, Deferred Registration Examination Study 10, 18–21 (Aug. 1, 2022) (“Deferred Registration Examination Study”), <https://www.copyright.gov/policy/deferred-examination/Letter-on-Deferred-Registration-Examination-2022.08.01.pdf>.

¹⁹ See 91 FR 13529, 13535; Group Registration of Two-Dimensional Artwork, 89 FR 11789, 11791 (Feb. 15, 2024); Deferred Registration Examination Study at 22–23; Registration Modernization, 85 FR 12704, 12706 (Mar. 3, 2020); Proposed Schedule and Analysis of Copyright Fees to Go into Effect in Spring 2020 34 (Oct. 16, 2019) (stating that the Office will “examine alternative vehicles for variable fee setting, including through further solicitations for public comment”).

²⁰ 17 U.S.C. 708(b)(5) (requiring the Register to submit an “economic analysis” of proposed fee adjustments to Congress prior to implementation).

now to plan for development of whatever additional system functionality may be required.

II. Alternative Fee Structures

As the Office explores alternative fee structures, our statutory lodestars are that fees be “fair and equitable” and “give due consideration to the objectives of the copyright system.”²¹ Economic analysis of these fee structures requires consideration of how they would impact Office operations, and how they would affect applicants’ registration decisions. In addition, because fees do not cover the full cost of the Office’s services, any net increase in filing volume would likely entail increasing fees, additional congressional appropriations, or both, to sustain Office operations.²² With these considerations in mind, this notice broadly outlines four types of alternative fee structures that have been proposed, along with some of the potential benefits and risks of each.

A. Fees Differentiated by Type of Work

The vast majority of applicants submit their claims using the Standard Application. The Office currently charges a uniform fee of \$65 for processing these claims, regardless of the type of work involved.²³ The resources required to examine each application, however, vary substantially across work types. For example, processing an application to register a motion picture on average costs \$83, whereas processing an application to register a literary work on average costs \$147.²⁴ As a result, some applicants end up paying fees that are disproportionate to the costs borne by the Office.

²¹ *Id.* at 708(b)(4).

²² *See* 91 FR 13529, 13532; Copyright Office Fees, 85 FR 9374, 9378–79 (Feb. 19, 2020).

²³ 37 CFR 201.3(c)(1)(i)(B).

²⁴ *See* Federal Research Division, U.S. Copyright Office FY2024 Fee Study: Cost Assessment Report 19–20 (2025) (“FRD 2025 USCO Cost Report”) (Table 4), <https://www.copyright.gov/rulemaking/feestudy2026/Cost%20Assessment%20Report.pdf>. For more information about the Office’s costs for providing services, see generally Copyright Office Fees, 91 FR 13529, 13533–40.

This misalignment effectively creates subsidies and can, over time, distort applicant behavior.²⁵

One possibility to address the differences in cost recovery would be to charge different fees for different types of works, based on the resources required to process claims. Under a differentiated fee model, applicants would pay fees more closely tied to the actual cost of examining their claims. This fee structure would reduce the existing cross-subsidies from applicants who submit inexpensive-to-process works to those submitting works that require the Office to expend more resources.²⁶

Because the Office already organizes examination operations into divisions corresponding to the major categories of works, and currently differentiates application forms and deposit requirements along similar lines, a differentiated fee system could align with the existing institutional structure.²⁷ Still, some outlays would be necessary to update electronic systems, public guidance, and intake procedures.

There are also circumstances where differential pricing based on the type of work could be inefficient and counterproductive. Because the Office's administrative

²⁵ See Yongmin Chen & Marius Schwartz, *Differential Pricing When Costs Differ: A Welfare Analysis*, 46 RAND J. Econ. 442, 443 (2015) (explaining that uniform pricing across services with different marginal costs misallocates output by encouraging excessive consumption of subsidized services and insufficient consumption of higher-cost services). See also Gerald R. Faulhaber, *Cross-Subsidization: Pricing in Public Enterprises*, 65 Am. Econ. Rev. 966 (1975) (discussing how cross subsidies can arise from the structure of costs and pricing); Dennis W. Carlton & Jeffrey M. Perloff, *Modern Industrial Organization* 712 (4th ed. 2015) (discussing cross-subsidization arising from differentiated prices).

²⁶ When fees reflect true resource demands, users are more likely to make more efficient decisions about the costs and benefits of consuming the service, and the Office will be better able to allocate its limited examination resources in a way that more closely matches stakeholder value. See Chen & Schwartz, *supra* note 25, at 443 (“Differential pricing obviously has the potential to increase total welfare when marginal costs differ: uniform pricing will misallocate output, so a small output reallocation to the low-cost market will raise total welfare.”). See also Faulhaber, *supra* note 25 (discussing how cross subsidies can arise from the structure of costs and pricing). See also Carlton & Perloff, *supra* note 25, at 712 (discussing cross-subsidization arising from differentiated prices).

²⁷ Currently, the Office of Registration Policy & Practice is organized into three different divisions—Literary, Performing Arts, and Visual Arts—that examine applications for different types of works. See 37 CFR 203.3(e).

classifications do not have legal significance,²⁸ if fees differ across categories, applicants may intentionally or inadvertently misclassify works, thereby triggering examiner review, correspondence, and supplemental fee collection, resulting in a later effective date of registration based on when the correct fee is received. Further, misclassification increases processing time, imposes administrative costs, and may degrade the quality of the public record.

B. Differential Fees for Individuals and Organizations

A second approach to fee differentiation would be to vary fees depending on whether the author, claimant, and/or applicant is an individual or an organization.²⁹ This structure is what is known to economists as third-degree price discrimination, in which a seller charges different prices to distinct groups that exhibit different levels of price sensitivity.³⁰ It does not necessarily cost the Office more to process a registration application from an organization than it does to process an application from an individual, so charging organizations more than individuals would make the fees paid by organizations disproportionately high relative to the costs they impose on the Office, and fees paid by individuals disproportionately low.³¹

²⁸ See 17 U.S.C. 408(c)(1).

²⁹ See U.S. Copyright Office, Compendium of U.S. Copyright Office Practices secs. 402, 404, 613.1 (3d ed. 2021).

³⁰ Price sensitivity refers to how consumer demand for a good or service is affected by price changes. Higher price sensitivity means that a consumer is more likely to forgo a good or service if the price increases or purchase more if the price decreases. In contrast, price insensitivity exists where demand remains the same regardless of any change in price. See Hal R. Varian, Intermediate Microeconomics: A Modern Approach ch. 24 (4th ed. 1992) (defining third-degree price discrimination as the practice of charging different prices to distinct consumer groups with different demand elasticities).

³¹ In some circumstances, the Office already effectively subsidizes applications from certain types of authors. For example, the fees for group registration of photographs are set low because many applicants are individuals and/or small businesses. See 91 FR 13529, 13534. These lower fees are partly subsidized by charging higher fees to register works in certain categories of services where the applicants or requesters are more likely to be corporate entities, including databases and news website updates, vessel hulls, special handling, and litigation statements. See *id.* at 13534–35.

Two conditions for this sort of pricing structure to be effective are: (1) a substantial difference in demand elasticity between groups, and (2) an ability to efficiently distinguish between the groups.³² With respect to the first condition, it is plausible that individuals and organizations exhibit markedly different demand elasticities for registration services.³³ As for the second condition, from an administrative perspective, distinguishing between individuals and organizations may be relatively straightforward, since applicants are asked to indicate whether each author and claimant is an individual or organization.³⁴ However, introducing differential fees would create incentives for organizations to misclassify themselves as individuals, which could result in additional costs to process applications with these errors.³⁵ Ultimately, if these two economic conditions are met, this type of fee differentiation could make registration more affordable for individuals, and, in theory, increase the overall number of applications.

C. Reduced Fees for Small Entities

Another approach could be for the Office to offer lower or discounted fees for smaller entities—small businesses and non-profit organizations that fall below a certain

³² See Carlton & Perloff, *supra* note 25, at ch. 9 (explaining that third-degree price discrimination requires identifiable consumer groups with different demand elasticities and that firms must be able to separate those groups at low cost for price discrimination to be effective).

³³ When one group is much more responsive to price than another, there may be efficiency and revenue advantages to charging the more elastic group a lower fee and the less elastic group a higher one. See Michael A. Crew & Paul R. Kleindorfer, *The Economics of Public Utility Regulation* ch. 6 (MIT Press 1986) (discussing Ramsey pricing and explaining that efficiency and revenue objectives are advanced when prices deviate from marginal cost inversely to demand elasticity, with lower prices charged to more elastic customer groups and higher prices to less elastic groups).

³⁴ See generally U.S. Copyright Office, *Copyright Registration Toolkit* (Jan. 2026), <https://www.copyright.gov/intellectual-property-toolkits/copyright-registration-toolkit.pdf>; *Standard Application Registration Tutorial*, U.S. Copyright Office, <https://copyright.gov/eeco/standard.mp4>. The Office intends to continue the practice of asking applicants to specify whether authors and claimants are individuals or organizations in ECS Registration.

³⁵ Preventing misclassification may require the Office to adopt verification measures, causing additional costs. See Jean-Jacques Laffont & Jean Tirole, *A Theory of Incentives in Procurement and Regulation* chs. 1–2 (MIT Press 1993) (explaining that when regulated parties have incentives to misrepresent their type, differentiated pricing or regulatory schemes require verification and enforcement mechanisms whose administrative and informational costs can offset or exceed the efficiency gains from differentiation).

employee headcount or revenue level. This approach would provide benefits similar to our cost-effective group registration options, which we implemented to make registration more accessible to individual creators and small businesses.³⁶

The U.S. Patent and Trademark Office (“USPTO”), following congressional legislation, has offered small entity fee discounts for patent applicants for several years. Under the America Invents Act, the USPTO is statutorily required to discount various patent application fees for small and micro entities, by 60 to 80 percent, respectively.³⁷ To deter misuse of these options, the USPTO requires that small and micro-entity patent applicants certify that they meet income and filing-history thresholds; and civil penalties, and, in some cases, criminal liability, are available to deter misrepresentations.³⁸

Discounting copyright registration fees for smaller entities would operate on similar economic logic as differentiating between individuals and organizations. The presumption is that smaller entities have less ability to pay fees and higher price sensitivity than larger organizations, making them more responsive to fee changes. Differential pricing could therefore improve access to registration for smaller enterprises while shifting a larger share of cost recovery onto larger, less price-sensitive entities.³⁹

³⁶ See 91 FR 13529, 13534; 90 FR 59383, 59387 (Dec. 19, 2025) (noting that the Office tailored the proposed group registration option “to address the challenges facing individual artists and small businesses in registering two-dimensional artwork one work at a time, in light of concerns that these claimants often lack the time and resources required to register works individually”).

³⁷ See Unleashing American Innovators Act of 2022, Pub. L. No. 117-328, sec. 107, 136 Stat. 4459, 5521–22 (2022).

³⁸ See *id.*; Leahy-Smith America Invents Act, Pub. L. 112-29, sec. 10(b), 125 Stat. 284 (2011), *amended by* the SUCCESS Act, Pub. L. 115-273, 132 Stat. 4158 (2018); 37 CFR 1.27, 1.29. A “small entity” is defined as a person, small business concern (*i.e.*, 500 or fewer employees), or nonprofit organization (*e.g.*, university, 501(c)(3) organization, state nonprofit scientific and educational organizations, foreign nonprofit that, if located in the U.S., would qualify as a nonprofit under federal or state law). 37 CFR 1.27(a); 13 CFR 121.802. A “micro entity” is an application that qualifies as a “small entity” under USPTO rules, has not been named as an inventor on more than four previously filed patent applications, did not earn more than three times the median household income and did not convey an interest to an entity that exceeded the triple median gross income limit. 35 U.S.C. 123.

³⁹ See Carlton & Perloff, *supra* note 25, at ch. 9 (explaining that under third-degree price discrimination, charging lower prices to more price-elastic groups and higher prices to less price-

Because the Office does not collect data on entity size, it cannot confirm these presumed differences in demand elasticity. Moreover, the findings in one recent empirical study cast doubt on whether discounted fees for smaller entities meaningfully increase patent filings.⁴⁰ If similar dynamics apply to copyright registration, fee discounts for smaller entities could reduce Office revenue without meaningfully increasing registration activity.

But distinctions between the copyright and patent systems may lead to a different outcome if the Office were to discount fees for small entities. Most fundamentally, an application is necessary to secure patent rights; no protection exists until the patent is granted by the USPTO.⁴¹ In contrast, copyright subsists automatically upon fixation of a work of authorship.⁴² Although copyright owners have meaningful incentives to register,⁴³ they need not do so to enjoy legal rights.

A related distinction is the cost of services: copyright registration fees are considerably lower than patent filing and maintenance fees.⁴⁴ Further, filing fees often

elastic groups can expand participation by the elastic group while allowing greater cost recovery from the inelastic group).

⁴⁰ Gaétan de Rassenfosse & Adam B. Jaffe, *The Effect of Application Fees on Entry into Patenting* (Nat'l Bureau of Econ. Rsch., Working Paper No. 33492, 2025), <https://www.nber.org/papers/w33492> (finding that the USPTO's fee reductions for small and micro entities had no measurable effect on small-entity patenting activity).

⁴¹ See 35 U.S.C. 100–105, 111, 131, 151, 154 (specifying that a patent, and the exclusive rights that it provides, can only be “obtain[ed]” by submitting an application that complies with the relevant statutory and regulatory provisions to the USPTO, which examines and issues the patent).

⁴² See 17 U.S.C. 408(a) (“[R]egistration is not a condition of copyright protection.”).

⁴³ These incentives include that a registration determination by the Office is a precondition to instituting litigation in federal court and for seeking statutory damages and fees for infringement. See *id.* at 411(a); *Fourth Estate Public Benefit Corp. v. Wall-Street.com, LLC*, 586 U.S. 296, 309 (2019).

⁴⁴ Compare 37 CFR 201.3 (copyright fee schedule, including a fee of \$65 for a Standard Application filed online), with *id.* at 1.16–1.21 (patent fee schedule, including a basic application filing fee of \$350, search fee of \$770, and examination fee of \$880). Unlike fees for copyright registration that are paid only when the application is filed, patent owners must also periodically pay fees after a patent is granted to maintain protection for the entire term. See *id.* at 1.20(e)–(g) (fees for maintaining a patent due at 3.5 years (\$2150), 7.5 years (\$4040), and 11.5 years (\$8280)).

represent a relatively small share of total costs in developing and securing a patent for an invention, including the cost of paying an attorney to prosecute the patent, such that the amount of fees may not be a significant factor influencing smaller entities' application decisions.⁴⁵ This may be a more significant factor for small entities that rely on copyright protection, like a freelance photographer's limited liability company.⁴⁶ Moreover, copyright owners are often individuals who are not engaged in business activity, who may register simply to make a record of their claims and protect against infringement without intending to commercialize their works.

In addition to potentially affecting application volume, offering discounts for smaller entities may require the Office to incur additional operating costs. Like the proposal to differentiate fees based on the type of work, a system that conditions eligibility for lower fees based on income, size, or filing history could invite strategic behavior, entailing greater burdens in identifying and correcting miscategorized applications. Nevertheless, if reduced fees for small entities leads to increased use of the copyright registration system, that may justify some additional administrative costs.

D. Subscription Pricing

⁴⁵ Based on a survey of intellectual property firms and individual practitioners about professional service fees charged in FY2024, the AIPLA reported median fees of \$8,000 for preparing a patent application of "minimal complexity" and median fees of up to \$12,000 for a "relatively complex" application. *See* AIPLA, Report of the Economic Survey 22–25 (2025). In addition to the costs of preparing a patent application, inventors may incur costs for related professional services such as to amend or argue the patent application, appeal a denial, conduct a novelty search, provide a validity opinion, and issue an approved patent. *See id.*

⁴⁶ Even where an author engages a third-party service to assist with a copyright registration, however, those fees, including the fee charged by the Office, generally amount to less than \$1000. *See id.* at 31 (reporting median professional fees of \$525 to prepare and file an application for copyright registration). This cost, while not insignificant to an individual or small business, is relatively modest compared to the legal fees and costs of retaining an attorney to prosecute a patent, which on average start at \$8000 and can far exceed that. *See id.* at 22–25.

Subscription pricing is a model in which users pay a fixed periodic fee—usually monthly or annually—in exchange for access to a service during that period.⁴⁷ Instead of charging users each time they apply to register a work, the Office could charge a fixed subscription fee that entitles them to file up to a certain number of applications within a prescribed period (subject to any volume constraints imposed by the system). While adopting any of the proposed alternative fee structures would require modifications to the application fee calculator in ECS Registration, because the Office does not currently offer subscription pricing for any of its services, doing so would require more substantial development work.⁴⁸

A subscription model is common in certain commercial markets where the cost of providing one additional unit of the service is close to zero, for example, markets for software, digital media, or cloud services.⁴⁹ In economics terms, subscription pricing converts what would otherwise be a per-use transaction into a flat-rate system in which the marginal price of the next use is effectively zero. Such a model is economically efficient under a specific set of conditions, including high fixed costs, high switching costs, low marginal costs, and a high variance of usage intensity across subscribers. If all these economic conditions are met, subscription pricing could benefit applicants and the Office, and ultimately the public, by reducing transaction costs, taking advantage of

⁴⁷ Liran Einav et al., *Selling Subscriptions*, 115 *Am. Econ. Rev.* 1650, 1650–51 (2025) (“A growing number of retail products are now sold as subscriptions, which are typically billed on a monthly basis and automatically renewed unless a consumer actively cancels.”).

⁴⁸ See 89 FR 11789, 11797 (explaining that the Office “will not be able to offer alternate fee structures for high volume creators,” including subscription pricing, “until after the ECS system is fully operational”); 83 FR 2542, 2545 (explaining that currently the Office does not have the ability to charge a flat fee that would allow applicants to submit a set number of applications or register a set number of works over a given time period).

⁴⁹ Einav et al., *supra* note 47, at 1650–52 (explaining that subscription pricing is most attractive in markets with low marginal costs and where consumer behavior—such as inattention or switching costs—supports flat-rate pricing, and that absent these conditions firms must rely on substantially higher fixed fees or experience reduced revenue, making the subscription model inefficient or unsustainable).

economies of scale, and smoothing revenue. Otherwise subscription pricing becomes inefficient and potentially costly.

Such inefficiencies would be particularly acute for a public-sector agency like the Office. The marginal cost of examining a registration application is not close to zero; rather, the per-unit cost of examining standard applications ranges from \$83.46 to \$194.46.⁵⁰ The Office does not experience economies of scale in the examination process—each claim requires examiner review, including time-consuming correspondence in some cases, as well as system resources. Neither would subscription pricing meaningfully reduce transaction costs. Applicants would still need to submit individual deposit copies and complete all required information for each registration application, which constitute most of the transaction costs for the user. The only obvious reduction would come from avoiding repeated payment entry—a benefit already achieved through deposit accounts in the current registration system.⁵¹

Further, a subscription system may introduce inequity among claimants by severing the link between usage and cost, encouraging high-volume applicants, including large organizations and third-party registration services, to file even more frequently while paying far less per claim. Meanwhile, low-volume users, including individual creators and small entities, would pay relatively more per claim. This would constitute a cross-subsidy from small or infrequent users to large or high-volume users.

Finally, allowing applicants to file additional claims for no additional fee might lead to speculative, low-quality, or borderline claims, which would strain examination resources. An influx of low-quality claims could overwhelm Office capacity, lengthen processing times, and degrade the quality of the public record. To mitigate such harms,

⁵⁰ See FRD 2025 USCO Cost Report at 32.

⁵¹ See 37 CFR 201.6(b). In the future, some of applicants' other transaction costs may be reduced if they submit claims, upload deposits, and pay subscription fees through an application programming interface ("API")—an option that the Office is planning to develop in ECS Registration.

the subscription fee would likely need to be set high and the number of applications would need to be limited.⁵² While subscription pricing might be feasible under those conditions—where the fee is sufficiently high and volume is appropriately limited—they may eliminate the utility of a subscription for the applicants who would be inclined to use it.

III. Subjects of Inquiry

This notice builds on previous public comments proposing various alternative registration fee structures by providing an opportunity to expand on those proposals and explain in greater detail how they could be structured and implemented. We also seek to elicit information—in particular, quantitative data about stakeholder registration practices and price sensitivity—that can be used for a robust economic analysis.⁵³ The resulting analysis will be a predicate for developing the functionality that would be needed for any alternative fee structures in ECS Registration.

Accordingly, the Office is requesting public comment on the subjects of inquiry below. A party choosing to respond to this notice of inquiry need not address every subject, but we request that responding parties clearly identify and separately address each subject for which a response is submitted. The Office also requests that commenters explain their interest in the topic and, with respect to each answer, the basis for their knowledge.

⁵² See Crew & Kleindorfer, *supra* note 33, at ch. 7 (explaining that when services are priced at zero or near-zero marginal cost, excessive or low-value usage can strain system capacity and degrade service quality, requiring either higher fixed charges or quantity restrictions to preserve cost recovery and system performance).

⁵³ In order to be considered, data must meet professional standards of quality and transparency, and submitters should include a statement detailing what the data is and how it was collected. For guidelines, see for example, Office of Mgmt. & Budget, Guidelines for Ensuring and Maximizing the Quality, Objectivity, Utility, and Integrity of Information Disseminated by Federal Agencies, 67 FR 8452, 8452–55 (Feb. 22, 2002) (establishing government-wide standards for data quality, including requirements that information used in agency analysis be accurate, reliable, unbiased, transparent as to sources and methods, and suitable for its intended analytical use, particularly where data are used to support economic and policy decisions).

A. Alternative fee structure details

1. Please describe, in detail, mechanisms for how the Office could implement the four proposed alternative fee structures and explain how they would support the objectives of promoting equity among authors of different work types, sustaining Office operations, and encouraging registration to create a reliable public record of copyright ownership. In doing so, consider the following:
 - a) Where an alternative fee structure would be limited to certain types of claims or applicants, how should those categories be defined and why? Describe any proposed fee tiers based on the type of claim or applicant, including how fees should be set for each tier relative to other tiers, and explain why these tiers would be consistent with the statutory requirement that fees charged by the Office be “fair and equitable.”
 - b) If the Office were to charge different fees for individuals and for organizations, should the fee be based on the person who created the work (the author), the person who owns the copyright in the work (the claimant), and/or the person who is submitting the claim (the applicant)?
 - i) Should fees vary depending on whether the work was created by an individual author (*i.e.*, not a work made for hire) or corporate authors (*i.e.*, works made for hire)?
 - ii) Should fees vary depending on whether the copyright in the work is owned by an individual claimant or a corporate claimant (which may have obtained the copyright from an individual author)?
 - iii) Should fees vary depending on whether the claim is being submitted by an individual (*e.g.*, an individual author/claimant submitting the claim on their own behalf) or a corporate entity (*e.g.*, a person submitting a claim on behalf

of their corporate employer, a person who works for a law firm, or a person who works for a copyright registration service)?

- c) If the Office were to discount fees for smaller entities, how should entity size be determined—based on annual revenue, employee headcount, non-profit status, and/or another metric?
 - d) Under a subscription model, what would be reasonable limits on the number of works that an applicant could register and/or the number of applications they could file within a particular time period? Should there be different limits for different work types and, if so, how should the Office set these limits? How should fees be set given that the Office incurs similar costs when examining each individual work?
 - e) What should be the consequence(s) for applicant filing errors (*e.g.*, misclassifying a work, misrepresenting the applicant as an individual or small entity)? In order to help recoup costs and deter this behavior, should the Office refuse registration and require the applicant to refile with a later effective date, charge additional administrative processing fees (in addition to the fee difference), or some other option?
 - f) Please identify any current legal or regulatory constraints on adopting alternative fee structures and explain what changes to statutory or regulatory language would remove these impediments.
2. Other than the four alternative fee structures identified in this notice, are there any others that the Office should consider (*e.g.*, tiered fees based on the number of works being registered)? If so, please describe them in detail while considering the above questions.

B. Business and registration practices

3. Please describe your or your organization's current practices with respect to registration, providing information about filing volume and costs incurred (*e.g.*, application fees, personnel costs, third-party service and legal fees) for different types of works where available. In addition, please specify whether you are an individual or organization; and if an organization, please provide the entity's approximate staff headcount and annual revenue.
4. Please describe the extent to which any alternative fee structure, if implemented by the Office, is likely to affect your practices with respect to registration, including any quantitative projections about the effect on filing volume and registration-related expenses.
5. Are you aware of any potential applicants that are not fully participating in the current registration system and would be incentivized to register works if the Office implemented one or more alternative fee structures? If so, describe the potential applicant(s), identify the fee structure(s), and explain the projected change(s) in registration activity, providing quantitative data where available.
6. Would implementing any of the alternative fee structures deter any potential applicants from seeking registration or otherwise lead them to modify their registration practices? If so, describe the potential applicant(s), identify the fee structure(s), and explain the projected change(s) in registration activity, providing quantitative data and analysis where available.

C. Processing costs and feasibility

7. The Office has traditionally recovered approximately 50 to 60% of our costs through fees; and the remainder is provided through appropriations from Congress. If alternative fee structures were to increase costs for providing registration services—for example, by increasing registration volume and requiring more examiners—how

- should the Office recover these additional costs? If the Office were to increase fees to make up for any budgetary shortfall, please identify which service fees should be increased and explain why those increases would be “fair and equitable.”
8. The adoption of any alternative fee structure is subject to technical feasibility within ECS Registration, currently in development, and would require developing additional system capabilities. To assess usage and costs before expanding access to more applicants, should the Office adopt any alternative fee structures on a limited or temporary basis? Should these fee structures be limited to certain types of works or applications? Please identify any appropriate limitations and explain why certain applications should be given higher priority.
 9. Are there other process changes that could be implemented through development of ECS Registration—*i.e.*, in-process technological upgrades to make application processing easier for internal and external users—that would incentivize registration and improve cost recovery? Would the Office’s planned development of API functionality, once implemented, diminish the need for any of the proposed alternative fee structures?
 10. The Office periodically evaluates, including in our fee studies, how often various registration options are used by applicants and the costs associated with providing each of them. If we were to adopt any alternative fee structures, would that obviate the need for any existing application options, such as current group registration applications? Conversely, would more or expanded group registration options obviate the need for any of the alternative fee structures? Should the Office “sunset” or discontinue any group registration options or alternative fee structures if they are infrequently used or duplicative of other options?

Dated: March 24, 2026.

Emily L. Chapuis,

General Counsel and Associate Register of Copyrights.

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