



January 31, 2017

The Honorable Bob Goodlatte  
US House of Representatives  
Washington, D.C. 20515

The Honorable John Conyers, Jr.  
US House of Representatives  
Washington, D.C. 20515

Dear Chairman Goodlatte and Ranking Member Conyers,

We appreciate your focus on improving the copyright system through the House Judiciary Committee's review of U.S. copyright law. We commend you for the collaborative process you have used throughout your review. The first step in improving the copyright system is ensuring that the US Copyright Office is functioning in a manner that meets 21<sup>st</sup> Century needs of copyright owners and users. We therefore appreciate the opportunity to provide feedback on the outline of proposed reforms to the US Copyright Office (the "Proposal").<sup>1</sup>

BSA | The Software Alliance ("BSA") is an association of the world's leading software and hardware technology companies.<sup>2</sup> On behalf of its members, BSA promotes policies that foster innovation, growth, and a competitive marketplace for commercial software and related technologies.

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<sup>1</sup> <https://judiciary.house.gov/wp-content/uploads/2016/12/Copyright-Reform.pdf>

<sup>2</sup> BSA's members include Adobe, Ansys, Apple, Autodesk, Bentley Systems, CA Technologies, CNC/Mastercam, Datastax, IBM, Microsoft, Minitab, Oracle, Salesforce, SAS Institute (SAS), Siemens Splunk, Symantec, The MathWorks, Trend Micro, Trimble, and Workday.

## **The Software Industry**

The software industry is a key driver of economic growth, contributing more than a trillion dollars per year to the US economy.<sup>3</sup> That number includes \$475.3 billion in direct contributions and over \$525 million in indirect and induced contributions. From the agricultural sector (where software helps farmers increase crop yields) to the healthcare sector (where software drives diagnostic accuracy), and the public sector (where software helps governments deliver services, reduce traffic congestion, fight crime, and cut costs), software creates efficiencies across the economy.

The software industry also invests heavily in cutting edge research and development that is critical to the US's continued innovative competitiveness. Software companies account for more than 17% of the nation's R&D spending, a total of more than \$50 billion dollars per year.<sup>4</sup> At an annual growth rate of 13.2%, software is the fastest growing area of R&D spending in the entire economy.<sup>5</sup>

Perhaps most importantly, the software industry provides nearly 10 million high paying jobs for the American workforce.<sup>6</sup> That figure includes 2.5 million people directly employed by software companies, which pay salaries far above the national average. Indeed, software developers earned an average \$108,760 in 2014—more than twice the national average of non-software workers. In addition to direct employment, software indirectly supports an estimated 7.3 million jobs in other industries.

Because copyright policy is vitally important to promoting the innovation that has kept the United States at the forefront of software development, BSA members have a strong interest in the proper functioning of the US copyright system. BSA has therefore been actively engaged throughout the House Judiciary Committee's review of US copyright law. With the process now moving towards the next phase, we write today to offer views on the policy proposal for reforming the US Copyright Office.

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<sup>3</sup> BSA, *The \$1 Trillion Economic Impact of Software*, at 3 (June 2016), available at <http://softwareimpact.bsa.org/>.

<sup>4</sup> *Id.*

<sup>5</sup> Barry Jaruzelski et al., *Global Innovation 1000: Innovation's New World Order*, Strategy and Business (Winter 2015).

<sup>6</sup> BSA, *The \$1 Trillion Economic Impact of Software*, at 3.

## **Reform of the US Copyright Office Proposal**

The Copyright Office plays a critical role in supporting the administration and functioning of the US copyright system. In addition to its core function as a repository for recordation information, the Copyright Office administers the Section 1201 triennial rulemaking process, serves as a key advisor in international IP negotiations, and provides expert advice to Congress, the courts, the Department of Justice, and other US government agencies grappling with complex copyright policy questions. We are pleased that the Committee's first policy proposal is focused on ensuring that the Copyright Office's structural, budgetary and technological underpinnings are "sufficient to meet the needs of a modern 21<sup>st</sup> Century copyright system."

*The Register of Copyrights and Copyright Office Structure.* The Proposal's first prong is focused on ensuring that the Copyright Office is accountable, provides effective policy advice and counsel, and has the resources and structure needed for it to succeed. BSA supports these objectives, and we look forward to working with the Committee to assess whether the structure included in the Proposal best accomplishes the objectives. Given the profound impact copyright has on virtually every sector of the economy, it is critical that the Office has the staff it needs to carry out its mission. Ensuring that the Office has in-house expertise to grapple with the unique economic and technological impacts of copyright policy must be a priority.

*Copyright Office Advisory Committees.* The hallmark of an effective agency process is collaboration by all those that may be affected by policy changes. The Copyright Office has an excellent tradition of using notice and comment process to develop policy positions. The Advisory Committee contemplated in the Proposal may further add to stakeholder engagement, and we welcome it. We look forward to working with the Committee on how Advisory Committees would work to supplement existing processes for stakeholder engagement.

*Information Technology Upgrades.* We are particularly pleased with the proposal to improve the Copyright Office's IT system. The Copyright Office cannot function effectively in the 21<sup>st</sup> Century without a modern IT system. This should include, but not be limited to, a searchable, digital database of ownership information and a database that can assist in connecting licensors and licensees of copyrighted works. This is an indispensable part of

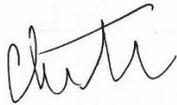
any Copyright Office modernization effort, and we applaud you for including it in the Proposal.

*Small Claims.* We support the objective of a small claims process within the Copyright Office: to ensure artists with limited resources for federal litigation can have their disputes settled. It is important that any small claims system at the Copyright Office be voluntary for both plaintiffs and the defendants. Ensuring the process remains voluntary will prevent the system from being inundated with unmeritorious suits and shore up its constitutionality, which might otherwise be viewed as an exercise of Article III judicial power by an Article II agency.

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BSA appreciates the opportunity to provide comments on the Proposal and participate in the Committee's copyright review.

Sincerely,



Christian Troncoso  
Director, Policy