

# AIPLA

## American Intellectual Property Law Association

June 24, 2026

The Honorable Shira Perlmutter  
Register of Copyrights and Director  
U.S. Copyright Office  
101 Independence Avenue, SE  
Washington, DC 20559-6000

**Re: AIPLA Comments on Alternative Fee Structures for Registration, U.S. Copyright Office, [Docket No. 2026-3]**

Dear Register Perlmutter,

The American Intellectual Property Law Association (AIPLA) is pleased to offer comments in response to the above-referenced Notice of Inquiry (NOI) issued by the U.S. Copyright Office regarding alternative fee structures for copyright registration. AIPLA appreciates the Office's efforts to evaluate potential fee models that may be implemented in connection with its updated electronic registration system and welcomes the opportunity to provide input on the feasibility, participation impacts, and economic considerations associated with alternative registration fee structures.

Founded in 1897, AIPLA is a national bar association of approximately 6,500 members who are engaged in private or corporate practice, in government service, and in the academic community. AIPLA members represent a wide and diverse spectrum of individuals, companies, and institutions involved directly or indirectly in the practice of patent (utility and design), trademark, copyright, trade secret, and unfair competition law, as well as other fields of law affecting intellectual property. Our members represent both owners and users of intellectual property. Our mission includes helping to establish and maintain fair and effective laws and policies that stimulate and reward invention while also balancing the public's interest in healthy competition, reasonable costs, and basic fairness.

### **Fee-Setting Authority**

Section 708 of the Copyright Act grants the Office fee-setting authority. 17 U.S.C. § 708. Although there is no significant case law construing the Office's fee-setting authority, the Office itself has offered analysis on the topic,<sup>1</sup> and at least one scholar has recently considered the issue.<sup>2</sup>

AIPLA believes that Section 708 grants the Office substantial flexibility in the setting of fees. Section 708(b)(4) simply requires that fees "be fair and equitable and give due

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<sup>1</sup> See <https://www.copyright.gov/rulemaking/feestudy2018/proposed-fee-schedule.pdf>.

<sup>2</sup> See Robert Brauneis, *Properly Funding the Copyright Office: The Case for Significantly Differentiated Fees*, 64 J. Copyright Soc'y U.S.A. 451 (2017).

consideration to the objectives of the copyright system.” Although Section 708(b)(2) limits fees to levels “not more than that necessary to cover the reasonable costs incurred by the Copyright Office for the services described,” with allowances for inflation and projected costs, it is appropriate to read that limitation as applying to fees collected in the aggregate, and not on an application-by-application basis. *See* Brauneis, *Properly Funding the Copyright Office: The Case for Significantly Differentiated Fees*, 64 J. Copyright Soc’y U.S.A. at 463-64. “Under this interpretation, the Office has statutory authority to set individual fees at levels it deems necessary to achieve its objectives—including fees that vary by application type—so long as total fee revenue remains tied to reasonable costs and individual fees remain fair and equitable.”

Under this framework, AIPLA believes that the Office has authority to differentiate fees by type of work and type of author. As noted below, AIPLA does not, however, believe that the Office has authority to institute subscription pricing.

## **Responses to “Part III — Subjects of Inquiry”**

### **A. Alternative Fee Structure Details**

1. Mechanisms to implement the four proposed structures; equity, sustainability, and public record impacts

AIPLA agrees with the NOI that any alternative fee structure must be evaluated against (i) impacts on participation and the integrity of the public record, and (ii) operational feasibility and cost recovery in light of § 708(b)(4).

- (a) Defining Categories and Fee Tiers for Alternative Fee Structures in a Fair and Equitable Manner

#### Fees differentiated by type of work:

AIPLA supports differentiating by work type because examination costs vary by category. As stated above, it also believes this sort of structure is within the Office’s Section 708 authority.

This position is supported by the FRD FY 2024 Fee Study (June 2025), which shows that certain categories of works are consistently more costly for the Office to process than others. For example, even among standard filings, applications for works of the performing arts tend to incur higher direct and total costs than less complex categories, and paper-based filings—particularly those requiring physical deposit processing—impose materially higher costs than electronic filings. By contrast, lower-cost categories, including certain electronic standard and single applications, can be processed at substantially lower per-claim cost.

The disparity is even more pronounced for higher-complexity filings. Group registrations—especially those involving contributions to periodicals and other multi-work submissions—impose significantly greater examination burdens, resulting in total costs that are orders of magnitude higher than simpler filing types such as serials. Similarly, categories requiring more experienced examiners and more intensive review (such as certain music-related group filings) carry higher hourly examination costs. These data indicate that more complex, labor-intensive filing categories—including group registrations and other multi-work or higher-review claims—are disproportionately expensive for the Office to process and therefore are appropriate candidates for higher fees, while simpler and more standardized claims should remain at lower price points.

Different fees for individuals vs. organizations:

AIPLA recommends against this option due to the high likelihood of applicants gaming the system. Specifically, AIPLA is concerned that corporate applicants could maneuver around any pricing increases by routing filings through individuals. AIPLA's 2022 support for differentiating fees by the type of filer, as referenced in n.17 of the NOI, accounts for this by encouraging the Office to consult the United States Patent and Trademark Office, as reflected further in our comments below on reduced fees for smaller entities.

Although AIPLA does not support this option, it does believe that it is within the Office's broad authority under Section 708.

Reduced fees for small and micro entities:

AIPLA supports charging reduced fees for smaller entities, and believes doing so is within the Office's Section 708 authority. Further study is likely required to determine the appropriate parameters of small entities for this purpose. In that regard, AIPLA notes that the U.S.P.T.O. charges reduced fees to qualifying small and micro entities. *See, e.g.*, 37 C.F.R. § 1.27 (defining "small entities"); 37 C.F.R. § 1.29 (defining "micro entities").

Subscription pricing:

AIPLA recommends against a subscription pricing model. Because the Office incurs meaningful costs in examining each application, a subscription model could disproportionately benefit high-volume filers while shifting a greater share of costs to lower-volume users. AIPLA is also concerned that such a model could encourage additional filings without a corresponding increase in fee revenue, creating cost-recovery and administrative challenges for the Office.

- (b) If individual vs. organization pricing, which status should control (author/claimant/applicant); work-for-hire issues.

Given AIPLA's concerns regarding the administrability of a fee structure based on individual versus organizational status, AIPLA does not offer specific recommendations regarding whether author, claimant, or applicant status should determine eligibility for such pricing.

- (c) If small-entity discounts, how determine size (revenue/headcount/nonprofit/other).

As stated above, non-profit status, employee count, and revenue are appropriate metrics.

- (d) Subscription model: reasonable limits; different limits by work type; setting fees given per-application costs.

Because AIPLA recommends against a subscription model, it has no further comment on this point.

- (e) Consequences for filing errors/misclassification; refusal/refile; processing fees; other options.

AIPLA is generally comfortable with this concept so long as (i) triggers are transparent, (ii) it targets avoidable conduct rather than good-faith mistakes, and (iii) amounts are calibrated to encourage accuracy without deterring participation.

- (f) Identify legal/regulatory constraints; statutory/regulatory changes.

AIPLA believes that differentiating based on type of work and type or size of applicant is within the Office's Section 708 authority. As explained above, transitioning to a subscription pricing model is inconsistent with Section 708 and would therefore require Congressional approval.

2. Other fee structures the Office should consider (beyond the four identified)

AIPLA notes that, in a prior submission, AIPLA proposed a system under which the Office automatically generated pricing on an application-by-application basis based upon certain user inputs. These inputs could be incorporated into the application process to the extent they are not included already and would include data that would allow the office to determine entity size. Because such an approach would necessarily tie fees to the type of work and type of applicant, AIPLA believes it would be within the Office's Section 708 powers.

## **B. Business and Registration Practices (Questions 3–6)**

The NOI requests filer-specific registration volume, internal costs, and projected behavior changes under alternative models. AIPLA is an intellectual property bar association, not a

typical Copyright Office registration applicant, and therefore does not have “organizational” filing practices or volumes to report in the manner contemplated by Questions 3–6.

### **C. Processing Costs and Feasibility**

7. If alternative structures increase costs (e.g., more volume/more examiners), how should additional costs be recovered; which fees increased; “fair and equitable.”

AIPLA recommends against adopting alternative structures that would increase costs to the point that fees would need to be increased as well.

AIPLA notes that the Office’s separate proposed increase of the standard application fee to \$85 is intended to improve cost recovery, raising the practical question of whether additional structural alternatives are necessary or urgent if that increase substantially advances the Office’s cost recovery goals for the most common application path.

8. Should the Office adopt alternative structures on a limited/temporary basis; limit by work types; priorities

AIPLA suggests implementing increased costs based on application type first, and if that is successful, implementing cost differentiation based on entity size.

9. Other ECS process changes; whether API functionality diminishes need for alternative structures

AIPLA believes it is too early to tell how API functionality will impact fee revenue. Further study and commentary on this question may be warranted once additional ECS improvements are implemented.

10. Would alternative structures obviate existing group options; should the Office sunset duplicative options

AIPLA recommends that the alternative structures be implemented before group options are eliminated. If alternative fee structures obviate group applications sufficiently, then it may make sense to consider sunseting them. Additionally, if the alternative fee structures impact the fees that applications generate, the fees for group options should be revisited.

### **Conclusion**

The NOI appropriately seeks data from users of the Office’s registration services to assess the potential benefits and drawbacks of alternative fee structures. AIPLA, as an intellectual property bar association and not itself a major user of the Office’s registration services, is not in a position to provide the user-specific data contemplated by the NOI. In the foregoing comments, AIPLA has identified its preferences regarding each of the proposed alternatives. AIPLA would welcome

the opportunity to comment further once the Office reviews the data it receives in response to the NOI.

Given the centrality of § 708(b)(4)'s "fair and equitable" standard and the Office's expressed goal of improving participation and record integrity, AIPLA encourages the Office to provide additional data that would enable stakeholders to offer more concrete feedback on real-world impacts.

Very truly yours,

A handwritten signature in black ink, appearing to read "Salvatore Anastasi". The signature is written in a cursive, flowing style.

Salvatore Anastasi

President

American Intellectual Property Law Association