

LINDSEY O. GRAHAM, SOUTH CAROLINA, CHAIRMAN

CHARLES E. GRASSLEY, IOWA
JOHN CORNYN, TEXAS
MICHAEL S. LEE, UTAH
TED CRUZ, TEXAS
BEN SASSE, NEBRASKA
JOSHUA D. HAWLEY, MISSOURI
THOM TILLIS, NORTH CAROLINA
JONI ERNST, IOWA
MIKE CRAPO, IDAHO
JOHN KENNEDY, LOUISIANA
MARSHA BLACKBURN, TENNESSEE

DIANNE FEINSTEIN, CALIFORNIA
PATRICK J. LEAHY, VERMONT
RICHARD J. DURBIN, ILLINOIS
SHELDON WHITEHOUSE, RHODE ISLAND
AMY KLOBUCHAR, MINNESOTA
CHRISTOPHER A. COONS, DELAWARE
RICHARD BLUMENTHAL, CONNECTICUT
MAZIE K. HIRONO, HAWAII
CORY A. BOOKER, NEW JERSEY
KAMALA D. HARRIS, CALIFORNIA

United States Senate

COMMITTEE ON THE JUDICIARY

WASHINGTON, DC 20510-6275

March 14, 2019

VIA ELECTRONIC TRANSMISSION

Ms. Karyn A. Temple
Acting Register of Copyrights
United States Copyright Office
Washington, D.C. 20559-6000

Dear Acting Register Temple:

We write you today in our capacities as Chairman and Ranking Member of the Senate Judiciary Committee, Subcommittee on Intellectual Property. In the United States Supreme Court's recent ruling in *Fourth Estate Public Benefit Corp. v. Wall-Street.com, LLC*, the Court determined that, with very limited exceptions, your office must complete its review of an application for copyright registration *before* an infringement lawsuit can be filed. We are concerned that this decision could unduly hinder the enforcement of constitutionally protected intellectual property rights, and we ask that you take steps to mitigate the unfortunate implications of this decision.

The Constitution recognizes creators' interests in their creative works, and it affords Congress the authority and responsibility to secure those interests through the protections and remedies of copyright law. Congress has enacted statutory remedies that enable creators to enforce their property rights through litigation in federal courts. The Supreme Court's decision in *Fourth Estate* significantly reduces those statutory protections by making enforcement of a creator's rights depend upon your office's processing of an application.

Because it takes, on average, at least six months for the Copyright Office to process registration applications, the real impact of the *Fourth Estate* decision will be the extended unlawful exploitation of a copyright owner's intellectual property. A delay of several months is a significant amount of time in today's digital economy and could lead to significant prejudice to copyright owners.

This outcome is troubling. We understand that the Copyright Office, and the Library of Congress broadly, have embarked on an extensive effort to modernize their systems and operations. We hope and expect that reducing the pendency of copyright registration applications will remain a priority in this initiative, and that the Copyright Office can return to the one-to-two-week processing timeframe referenced in the Court's decision. Accordingly, we request answers to the following questions and requests for information by no later than April 14, 2019:

1. What steps will your office take to reduce the pendency of current copyright registration applications?

LINDSEY O. GRAHAM, SOUTH CAROLINA, CHAIRMAN

CHARLES E. GRASSLEY, IOWA
JOHN CORNYN, TEXAS
MICHAEL S. LEE, UTAH
TED CRUZ, TEXAS
BEN SASSE, NEBRASKA
JOSHUA D. HAWLEY, MISSOURI
THOM TILLIS, NORTH CAROLINA
JONI ERNST, IOWA
MIKE CRAPO, IDAHO
JOHN KENNEDY, LOUISIANA
MARSHA BLACKBURN, TENNESSEE

DIANNE FEINSTEIN, CALIFORNIA
PATRICK J. LEAHY, VERMONT
RICHARD J. DURBIN, ILLINOIS
SHELDON WHITEHOUSE, RHODE ISLAND
AMY KLOBUCHAR, MINNESOTA
CHRISTOPHER A. COONS, DELAWARE
RICHARD BLUMENTHAL, CONNECTICUT
MAZIE K. HIRONO, HAWAII
CORY A. BOOKER, NEW JERSEY
KAMALA D. HARRIS, CALIFORNIA

United States Senate

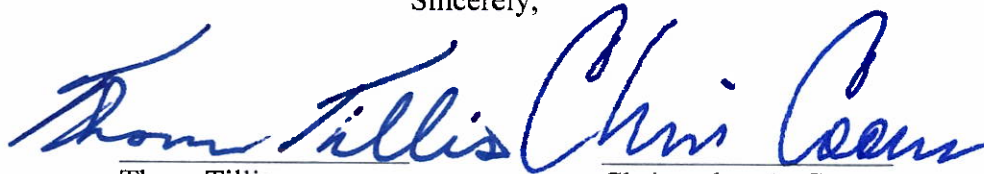
COMMITTEE ON THE JUDICIARY

WASHINGTON, DC 20510-6275

2. How will you ensure such a backlog of copyright registration applications does not occur in the future?
3. What budgetary resources does your office need to reduce the pendency of copyright registration applications from several months to, at maximum, a few weeks?
4. Will you develop and submit a pendency reduction plan to the Senate Judiciary Committee, Subcommittee on Intellectual Property by no later than May 31, 2019?
5. Will you commit to providing staff from our offices with regular updates—at least once per quarter—on your efforts to reduce copyright registration backlogs?
6. Are you developing a strategic plan for the Copyright Office's modernization initiatives? If so, when will this plan likely be released?

Thank you very much for your attention to this very important matter and for your response to our questions. We are committed to working with you to support and achieve this goal. If you have any questions, please do not hesitate to contact either Brad Watts with Senator Tillis at brad_watts@tillis.senate.gov or Philip Warrick with Senator Coons at philip_warrick@judiciary-dem.senate.gov.

Sincerely,



Thom Tillis
United States Senator

Christopher A. Coons
United States Senator