

Questions for the Record from Mr. Darrell Issa for Register Shira Perlmutter
Oversight of the U.S. Copyright Office, September 27, 2023

1. I recently penned a letter along with my colleagues questioning the ability of the Federal Communications Commission to grant a compulsory license in the video streaming marketplace. Would you agree that authority does not reside with the FCC?
2. The Copyright Office in its guidance of May 16, 2023, indicated that it will only register copyrights of works created by a human being, meaning that the outputs of artificial intelligence systems are not copyrightable, while at the same time recognizing the copyrightability of photographs, including digital photography that uses AI (e.g., “Portrait Mode” on an iPhone). The Supreme Court has recognized that a photographer’s arranging, selecting, and determining the scene for the photograph gives rise to an original work of authorship under copyright law, even though a machine (i.e., a camera) ultimately generated the photograph. How is artificial intelligence different, when the user of the artificial intelligence system may input a detailed prompt or series of prompts that can be paragraphs long?
3. To what extent has the Copyright Office conferred with its counterparts across the world on the issue of copyrightability of AI generated works, and what does the Copyright Office believe is the impact of specific international jurisdictions recognizing copyrightability of AI generated works, but the US not doing so? How does that impact competitiveness of American businesses, when it is possible to copyright AI generated works under Japanese and Israeli law?
4. In October 2022, the Copyright Office rejected the application of the derivative work exception to termination rights. Although it has been nearly a year since the rule was proposed and almost ten months since the deadline for comments to the rule, the Office has not issued a final rule. When should we expect a final rule on this issue?