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Regan A. Smith
General Counsel and Associate Register of Copyrights
U.S. Copyright Office
101 Independence Ave. S.E.
Washington, D.C. 20559-6000
regans@copyright.gov

Re: Sovereign Immunity Study [Docket No. 2020-9]

Dear Ms. Smith:

The University of Michigan (“U-M”) has seen no evidence of widespread intentional and reckless copyright infringement by state bodies, such as public colleges and universities. U-M, along with many other state colleges and universities, invests heavily in copyright through purchasing and licensing copyrighted works. We strive to make informed, good-faith decisions about using the works of others and proactively teach our communities to do the same.

It is unnecessary for Congress to abrogate states’ sovereign immunity for copyright infringement. There are many effective legal actions copyright holders can take when they are concerned that state institutions are infringing their copyrights. Copyright holders can notify states about their concerns, they can issue DMCA takedown requests, and they can seek to enjoin alleged infringement through the courts. These are particularly powerful tools for copyright holders and deter copyright infringement. Universities invest time, energy, and even full careers into projects; disrupting or preventing those projects with an injunction can be incredibly costly.

Similar to other state universities, U-M strives to be a good steward when it comes to copyright by supporting copyright holders and educating our community about copyright. Universities like U-M respect copyright and

purchase and license millions of works every year, making us well positioned to respond to the U.S. Copyright Office's inquiry about licensing. In our experience, U-M's status as a state institution means little when it comes to the price of licenses. Licenses are typically based on factors such as size of the university, amount of full time students or employees, and ability to allow for walk-in access and shared uses across satellite campuses. We have no evidence that we, as a state institution, are able to negotiate better deals than our private institution counterparts.

To help the U-M community be responsible stewards of copyright, the U-M Library Copyright Office was established in the mid-2000s. U-M leadership recognized a broad need for information about copyright for the university as a community of authors, readers, creators, scholars, and researchers – all of whom are creating and using works eligible for copyright. The office provides copyright information and education to the U-M community through research guides, workshops, and individual consultations. By providing information on all aspects of copyright, including how to make non-infringing uses, the office helps our community make good-faith decisions about how to use works created by others. U-M is not alone in investing in copyright expertise; many state colleges and universities employ copyright specialists who provide similar services to their communities and to the public at large.

Sovereign immunity is necessary for state universities to continue fulfilling their missions and commitments to the public without being encumbered by lawsuits seeking damages. Without sovereign immunity, states will face a greater number of complaints from people who are primarily looking for a quick windfall. State sovereign immunity should be preserved to protect state – and taxpayer – resources. These resources must instead be used for scholarships, research, and continuing to support copyright holders.

Respectfully submitted,

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