

# Announcement

from the Copyright Office, Library of Congress, Washington, D.C. 20559

## NOTICE OF PROPOSED RULEMAKING

### FILING OF AGREEMENTS BETWEEN COPYRIGHT OWNERS AND PUBLIC BROADCASTING ENTITIES; TERMINATION OF TRANSFERS AND LICENSES COVERING EXTENDED RENEWAL TERM; USE OF COPYRIGHT OFFICE RECORDS FOR COMPILING MAILING LISTS AND SIMILAR PURPOSES; AND TECHNICAL AMENDMENTS OF COPYRIGHT OFFICE REGULATIONS

The following excerpt is taken from Volume 41, Number 221 of the Federal Register for Monday, November 15, 1976:

#### LIBRARY OF CONGRESS

Copyright Office

[ 37 CFR Part 201 ]

[Docket RM 76-1]

#### FILING OF AGREEMENTS BETWEEN COPYRIGHT OWNERS AND PUBLIC BROADCASTING ENTITIES, TERMINATION OF TRANSFERS AND LICENSES COVERING EXTENDED RENEWAL TERMS, ETC.

##### Notice of Proposed Rulemaking

*Purpose.* The purpose of this notice of proposed rulemaking is to advise the public that the Copyright Office of the Library of Congress is considering the adoption of new regulations designed to implement portions of Pub. L. 94-553 (90 Stat. 2541), the Act for General Revision of the Copyright Law, pertaining to the filing of agreements between copyright owners and public broadcasting entities, and to the termination of transfers and licenses covering the extended renewal term of copyright. The Copyright Office is also considering deletion of its existing regulation prohibiting the use of Office records for compiling mailing lists and the like, and technical corrective amendments to other of its regulations.

*Comments.* Interested persons are invited to participate in the making of the new and amended regulations by submitting such written views, arguments or other comments as they desire to the Copyright Office, Office of the General Counsel, Washington, D.C. 20559. Each person submitting comments should include his or her name and address, and give reasons for any objection or recommendation made.

Comments received on or before December 15, 1976 will be considered by the Register of Copyrights and the Librarian of Congress before taking action on the proposed regulations and amendments. Copies of all written comments received will be available for public inspection and copying between the hours of 8 a.m. and 4 p.m., Monday through Friday, in the Public Information Office of the Copyright Office, Room No. 101, Crystal Mall Building No. 2, 1921 Jefferson Davis Highway, Arlington, Virginia.

#### EXPLANATION OF PROPOSED REGULATIONS AND AMENDMENTS

##### 1. RECORDATION OF AGREEMENTS VOLUNTARILY NEGOTIATED BETWEEN COPYRIGHT OWNERS AND PUBLIC BROADCASTING ENTITIES

Under § 118(b) (2) of the first section of Pub. L. 94-553, license agreements between one or more owners of copyright in published nondramatic musical works and published pictorial, graphic, and sculptural works, and one or more public broadcasting entities, are to be given effect in lieu of any determination by the Copyright Royalty Tribunal established under the new law, provided that "copies of such agreements are filed in the Copyright Office within thirty days of execution in accordance with regulations that the Register of Copyrights shall prescribe." Additionally, § 118(e) (1) provides for the voluntary negotiation of terms and rates of royalty payments between owners of copyright in nondramatic literary works and public broadcasting entities; these terms and rates are to be effective "upon filing in the Copyright Office, in accordance with regulations that the Register of Copyrights shall prescribe."

Under Sec. 102 of the Transitional and Supplementary Provisions of Pub. L. 94-553, these provisions became effective on October 19, 1976, the date of enactment of the new law. Accordingly, the Copyright Office proposes to open its public records to the filing of agreements between public broadcasting entities and copyright owners and to record these agreements upon payment of the appropriate fee.

It is proposed that recordation of these agreements be covered by the addition of a new § 201.9 of the regulations of the Copyright Office.

Proposed § 201.9 would establish the formal requirements governing the nature of the document to be filed for recordation. For documents submitted before January 1, 1978 the recording fee is proposed to be that provided for recordation of assignments and other papers under the present law; after January 1, 1978 the recording fee would be consistent with that provided by § 708(a) (4) of

the new law. The date of recordation is proposed to be the date upon which the last element required for recordation (signed document, certification if necessary, and fee) is received in the Copyright Office.

##### 2. TERMINATION OF TRANSFERS AND LICENSES COVERING EXTENDED RENEWAL TERM

Under § 304(c) of the first section of Pub. L. 94-553, the exclusive or nonexclusive grant of a transfer or license of a renewal copyright executed before January 1, 1978 is subject to termination in certain cases. Termination is effected by serving a notice of termination in writing upon the grantee or the grantee's successor in title under conditions specified in the law. Among other conditions, the notice of termination is to comply in form, content, and manner of service "with requirements that the Register of Copyrights shall prescribe by regulation." A copy of the notice of termination shall be recorded in the Copyright Office before the effective date of termination, as a condition to its taking effect.

Section 304(c) expressly refers to the possibility of terminating grants during specified periods beginning on January 1, 1978, and requires the serving of notices "not less than two or more than ten years" before the effective date of termination. Thus, a reasonable interpretation would permit the serving of certain termination notices before January 1, 1978. Accordingly, a new § 201.10 is proposed as an addition to the regulations of the Copyright Office, to govern the form, content, manner of service, and recordation of termination notices.

The proposed new § 201.10 attempts to avoid the imposition of costly or burdensome requirements while, at the same time, giving the grantee and the public a reasonable opportunity to identify the affected grant and work from the information given in the notice. The date of recordation of a notice of termination would be the date upon which the last element required for recordation (acceptable copy of signed document and fee) is received in the Copyright Office. Until January 1, 1978 the fee for recording copies of termination notices will be

that established for the recording of assignments and other papers under the current law; after January 1, 1978 the recording fee would be consistent with that provided by § 708(a)(4) of the new law.

### 3. USE OF COPYRIGHT OFFICE RECORDS FOR MAILING LISTS AND SIMILAR PURPOSES

Section 201.2(b)(2) of the regulations of the Copyright Office prohibits the "copying from the Copyright Office records of names and addresses for the purpose of compiling mailing lists and other similar uses." The Copyright Office has re-examined this prohibition and concluded that it is an unwarranted limitation on the public use of Office records. Accordingly, the Office proposes to delete § 201.2(b)(2) from its regulations. Upon deletion, use of Copyright Office records to compile mailing and similar lists may be made, under § 201.2(b)(1), "at such times as will not result in interference with or delay in the work of the Copyright Office."

### 4. TECHNICAL AMENDMENTS OF EXISTING REGULATIONS

The Copyright Office plans minor technical amendments of its existing regulations to correct the ZIP Code references in §§ 201.1 and 201.2(c)(2)(ii), and to delete the out-dated reference to "Copyright Office Form C-85" and correct the CFR citation pertaining to the use of import statements in § 201.8.

The Office also plans an addition to § 201.3 of its regulations to identify Part 14 of the Catalog of Copyright Entries.

(17 U.S.C. 207, and under the following sections of Title 17 of the United States Code as amended by Pub. L. 94-553: §§ 118; 304 (c); 702; 708(11).)

### PROPOSED REGULATIONS AND AMENDMENTS

In consideration of the foregoing, it is proposed to amend Part 201 of 37 CFR Chapter II, as follows:

1. By adding a new § 201.9 to read as follows:

§ 201.9 Recordation of agreements between copyright owners and public broadcasting entities.

(a) Licenses and other agreements pertaining to terms and rates of royalty payments negotiated between one or more copyright owners and one or more public broadcasting entities will be recorded in the Copyright Office upon payment of the fee prescribed by this section. The document submitted for recordation shall meet the following requirements:

(i) It shall be the original instrument of agreement; or, if the original is not available, it shall be a legible photocopy or other full-size facsimile reproduction of the original, accompanied by a statement signed by at least one of the parties to the agreement, or an authorized representative of that party, explaining why the original could not be submitted and certifying that the reproduction is a true copy;

(ii) It shall bear the signatures of all persons identified as parties to the agreement, or of their authorized agents or representatives; and

(iii) It shall be complete on its face, and shall include any schedules, appendices, or other attachments referred to in the instrument as being a part of it. After recordation the document is returned to the sender with a certificate of record.

(b) For a document consisting of six pages or less covering no more than one title, the basic recordation fee is \$5 if recorded before January 1, 1978 and \$10 if recorded after December 31, 1977; in either case an additional charge of 50 cents is made for each page over six and each title over one.

(c) The date of recordation is the date when all of the elements required for recordation, including the prescribed fee, have been received in the Copyright Office.

2. By adding a new § 201.10 to read as follows:

§ 201.10 Notices of termination of transfers and licenses covering extended renewal term.

(a) *Form.* The Copyright Office does not provide printed forms for the use of persons serving notices of termination.

(b) *Contents.* (1) A notice of termination must include a clear identification of each of the following:

(i) The name of each grantee (or the grantee's successor in title) whose rights are being terminated, and the address at which service of the notice is being made;

(ii) The title of each work covered by the grant being terminated, the name of at least one author of each such work, and, if possible and practicable, the renewal registration number for each such work;

(iii) The date of execution of the grant being terminated, the names of persons who executed the grant, and a brief statement of the nature of the grant and the rights covered by it;

(iv) The effective date of termination; and

(v) The names and addresses of the person or persons effecting the termination. Where the termination is exercised by the successors of a deceased author, the notice shall include a brief statement of their relationship to the deceased author.

(2) Clear identification of the information specified by paragraph (b)(1) of this section requires a complete and unambiguous statement of facts in the notice itself, without reliance on information in other documents or records.

(c) *Signature.* The notice of termination shall bear the actual signatures of those persons entitled to terminate the grant under the law, or of their authorized agents.

(d) *Manner of service.* The notice of termination shall be served upon each grantee or successor whose rights are being terminated. It shall be delivered by personal service, or by first-class mail sent to an address which, after a reasonable investigation, is found to be the last-known address of the grantee or successor.

(e) *Recordation.* (i) A copy of the notice of termination will be recorded in the Copyright Office upon payment of the fee prescribed by this paragraph.

(ii) The copy submitted for recordation shall be a complete and exact duplicate of the notice of termination as served; where separate copies of the same notice were served on more than one grantee or successor, only one copy need be submitted for recordation.

(iii) For a document consisting of six pages or less, covering no more than one title, the basic recordation fee is \$5 if recorded before January 1, 1978 and \$10 if recorded after December 31, 1977; in either case an additional charge of 50 cents is made for each page over six and each title over one.

(iv) The date of recordation is the date when all of the elements required for recordation, including the prescribed fee, have been received in the Copyright Office. After recordation the document is returned to the sender with a certificate of record.

3. By deleting § 201.2(b)(2) and reserving the number as follows and by revising (b)(1) as follows:

§ 201.2 Information given by the Copyright Office.

(b) *Inspection and copying of records.*

(1) Inspection and copying of completed records and indexes relating to a registration or a recorded document, and inspection of copies deposited in connection with a completed copyright registration, may be undertaken at such times as will not result in interference with or delay in the work of the Copyright Office.

(2) [Reserved]

§§ 201.1 and 201.2 [Amended]

4. By amending §§ 201.1 and 201.2(c)(2)(ii) to delete the ZIP Code identifications "20540" and to insert the ZIP code identifications "20559" after the words "Washington, D.C." in the addresses for the Register of Copyrights.

§ 201.3 [Amended]

5. By amending § 201.3 to add the following clause at the end of the section: "Part 14—Sound Recordings, §10."

6. By revising § 201.8(b) to read as follows:

§ 201.8 Import Statements.

(b) The provisions in the Customs regulations covering the use of the import statement are found in 19 CFR 133.45.

Dated: November 8, 1976.

BARBARA RINGER,  
Register of Copyrights.

Approved by:

DANIEL J. BOORSTIN,  
Librarian of Congress.

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