



ANNOUNCEMENT

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

POLICY DECISION: NOTICE OF REVISED PROCEDURES.

POLICY DECISION: REVISED SPECIAL HANDLING PROCEDURES

The following excerpt is taken from Volume 56, Number 152 of the Federal Register for Wednesday, August 7, 1991 (p. 37528)

COPYRIGHT OFFICE, LIBRARY OF CONGRESS

[Docket No. 91-10]

Policy Decision: Revised Special Handling Procedures

AGENCY: Copyright Office, Library of Congress.

ACTION: Policy Decision: Notice of revised procedures.

SUMMARY: The Copyright Office of the Library of Congress issues this Policy Decision to inform the public of changes in the procedure for requesting and obtaining special handling, i.e., expedited service, in connection with registration of claims to copyright, recordation of documents, and other services rendered to the public under the Copyright Act, title 17 of the U.S. Code. The basic procedures and the fee for the special handling service are unchanged. The Copyright Office will now accept payment for the special handling service by personal check and the required justification has been simplified.

EFFECTIVE DATE: August 7, 1991.

FOR FURTHER INFORMATION CONTACT: Dorothy Schrader, General Counsel, U.S. Copyright Office, Library of Congress, Washington, DC 20559; (202) 707-8380.

SUPPLEMENTARY INFORMATION:

1. Background

Section 708(a) of the Copyright Act, title 17 of the United States Code, prescribes a schedule of fees that must be remitted to the Copyright Office on filing applications to register claims to copyright, to record documents

pertaining to copyright, and for other services rendered to the public under the Act. Subsection (10) of section 708(a) gives the Register of Copyrights the authority to fix a fee for any special services requiring a substantial amount of time or expense based on the cost of providing the special service.

"Special handling" is a procedure established within the Copyright Office to reduce the length of time required to process an application for registration of a claim of copyright or to record a document pertaining to copyright. Special handling is granted at the discretion of the Register of Copyrights in a limited number of cases as a service to copyright registrants who have compelling reasons for the expedited issuance of a certificate of registration or a certificate of recordation of a document. In June 1982, a special handling fee for registration was fixed by the Register of Copyrights.

Special handling of requests for issuance of a certificate of registration impacts upon every step of the registration process. Under normal procedures applications for registration pass through the various processing steps in groups which are administratively efficient. A claim that receives special handling must be processed outside of the normal work flow necessitating individual handling at each step and individual routing between work stations. A separate system of controls must be maintained for the special handling of claims to assure both that they move expeditiously through the necessary procedures and that they can be located quickly if the need should arise. Each of these activities involves more employee

time than claims in the normal work flow since employees could otherwise be more efficiently occupied processing ordinary claims.

The copyright Office reviewed its¹ experience under these procedures in 1984 and re-evaluated the costs associated with special handling of registration applications. The Office found that processing of special handling requests involved more special administrative procedures than had been identified at the time the Register set the original special handling fee. The Office also found that the large number of special handling requests was more disruptive of routine processing procedures than we anticipated. The Register of Copyrights consequently determined that the special handling fee would be increased to \$200 to recover the administrative costs of providing this special service. At that time the Office also established a fee for processing multiple applications. In 1985 the Register of Copyrights determined that the fee for the special handling of a recordation of a document should be \$200, based on the cost of this service.

Under the authority of section 708(a)(10) the Register of Copyrights determined that the requestor of special handling service should pay, in addition to the normal applicable filing fee or recordation fee, the cost of additional staff time involved in the special handling of cases, computed at overtime rates plus a reasonable administrative fee.

The special handling fee is charged for each application for registration or for each recordation of a document pertaining to copyright for which special handling service is requested and granted, with the following exception: If

¹Error: line should read:
"The Copyright Office reviewed its"

special handling is requested for only one of several claims submitted at the same time with a single deposit, which is an acceptable deposit for all the claims, the fee for processing the additional claims is \$50.00 each plus the filing fee for each claim. The claim for which special handling is requested is processed for the \$200.00 special handling fee plus the filing fee. This narrow exception applies only where a single set of deposit copies may appropriately be submitted to register multiple claims, in accordance with the practices of the Copyright Office. The applicant is given the option of submitting an additional set of copies for each application to avoid assessment of the special \$50.00 fee. If multiple applications are accompanied by individual sets of deposit copies, claims for which special handling is not requested are processed routinely. Only the claim(s) for which special handling² is requested and granted are processed specially.

If the request for special handling is granted, the fee is not refundable. The Copyright Office makes every effort to process the claim within five working days after the request has been approved. Within that period the Office either issues the certificate of registration or notifies the applicant of any defect in the claim. If correspondence is required, the Office will make every effort to process the claim expeditiously after the reply is received.

2. Policy Revisions

Recently, the Copyright Office reviewed the general policies governing special handling. Based on this review, the Office confirms the policies described above but makes the following adjustments regarding the payment of the fee and the averment required to justify a request for special handling.

a. *Personal checks.* Under existing policies, the Copyright Office has required payment of the special handling fee in the form of cash, certified check, cashier's check, or money order. Personal checks have not

been accepted. The Office has noted that this policy poses problems for those who request special handling by mail: The Office returns the personal check and must delay processing the special handling request until acceptable payment is received. After several years of experience with special handling, the Office is prepared to change its policy and accept personal checks in payment of the special handling fee. The Office cautions, however, that the registration or recordation will be cancelled if the check is returned for insufficient funds. The Office will refuse to accept future personal checks from a special handling requestor once any personal check is returned for insufficient funds.

b. *Justification for special handling.* Requests for special handling are only granted in cases involving pending or prospective litigation, customs matters, or contract or publishing deadlines that necessitate the expedited issuance of a certificate. The existing policy requires requestors to use the form available in the Public Office or to submit a cover letter answering various questions concerning the need for special handling. The Office has decided to accept either the special form or a letter that clearly answers the question: "Why is there a need for special handling?" In either case the request must include a signed statement certifying that the information contained in the request is true.

3. Procedure for Requesting Special Handling

Requests for special handling may be made in person on the form available in the Public Information Office of the Copyright Office, room LM-401, James Madison Memorial Building, Library of Congress, 101 Independence Avenue, SE., Washington, DC. The Office will also consider requests by mail provided that the Special Handling Request form is used or a cover letter submitted, which gives an answer to the following question: "Why is there an urgent need for special handling?" It is also

necessary to certify that the answer to this question is correct to the best of the requestor's knowledge. A mailed request for special handling should be sent to: Library of Congress, Box 100, Washington, DC 20540.⁴

The letter inside should clearly indicate that it is a request for special handling.

The request for special handling of a registration must be accompanied by a completed application, the required deposit copies, phonorecords, or identifying material, and the \$200.00 fee plus the applicable filing fee. The request for special handling of a recordation of a document pertaining to copyright must be accompanied by a document meeting the requirements for recordation and the \$200 fee plus recordation fees (\$20 for a document listing no more than 1 title, plus \$10 for each group of 10 or fewer additional titles). The fee may be charged to a deposit account established in the Copyright Office. If the deposit account contains insufficient funds to cover the total special handling fee, or if the remitter does not maintain a deposit account, the total special handling fee may be paid either in person at the Public Information Office in Washington, DC, or it may be remitted by mail. Such payment must be in cash, check, or money order made payable to the Register of Copyrights. Cash should not be sent by mail, however.

A request for special handling will be granted only in cases involving pending or prospective litigation, customs matters, or contract or publishing deadlines that necessitate the expedited issuance of a certificate. Special handling procedures may be applied to cases pending in the Copyright Office, provided the previously mentioned criteria are met.

Dated: July 30, 1991.

Ralph Oman,

Register of Copyrights.

[FR Doc. 91-18686 Filed 8-6-91; 8:45 am]

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²Error; line should read:
"the claim(s) for which special handling"

³Error; line should read:
"described above but makes the following"

⁴ Note: Use this address exactly as shown. Do not include a reference to the Copyright Office or any other information.