

Announcement

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

NOTICE OF PROPOSED RULEMAKING

RECORDING OF NOTICES OF IDENTITY AND SIGNAL CARRIAGE COMPLEMENT OF CABLE SYSTEMS

The following excerpt is taken from Volume 42, No. 18 of the Federal Register for Thursday, January 27, 1977 (p. 5109 and 5110).

LIBRARY OF CONGRESS

Copyright Office

[37 CFR Part 201]

[Docket RM 77-1]

RECORDING OF NOTICES OF IDENTITY AND SIGNAL CARRIAGE COMPLEMENT OF CABLE SYSTEMS

Notice of Proposed Rulemaking

AGENCY: Library of Congress, Copyright Office.

ACTION: Proposed rule.

SUMMARY: 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 a new regulation designed to implement a section of Pub. L. 94-553 (90 Stat. 2541), the Act for General Revision of the Copyright Law, pertaining to the recording of certain notices by cable systems.

DATES: Initial comments should be received on or before February 18, 1977. Reply comments on or before March 4, 1977.

ADDRESS: Interested persons should submit written comments to:

Office of General Counsel, Copyright Office, Washington, D.C. 20559.

FOR FURTHER INFORMATION, CONTACT:

Jon Baumgarten, General Counsel, Copyright Office, Washington, D.C. 20559 (703-557-8731).

SUPPLEMENTARY INFORMATION: Section 111(c) of the first section of Pub. L. 94-553 establishes a compulsory licensing system under which cable systems may make secondary transmissions of copyrighted works. Initial conditions of the compulsory license are set forth in § 111(d) (1) as follows:

of operations of the cable system or within one hundred and eighty days after the enactment of this Act, whichever is later, and thereafter within thirty days after each occasion on which the ownership or control or the signal carriage complement of the cable system changes, record in the Copyright Office a notice including a statement of the identity and address of the person who owns or operates the secondary transmission service or has power to exercise primary control over it, together with the name and location of the primary transmitter or primary transmitters whose signals are regularly carried by the cable system, and thereafter, from time to time, such further information as the Register of Copyrights, after consultation with the Copyright Royalty Tribunal (if and when the Tribunal has been constituted), shall prescribe by regulation to carry out the purpose of this clause.

Section 111(d) (1) thus establishes the following recording requirements for cable systems, if they are to enjoy the benefits of the compulsory license provided by section 111(c) :

(1) Any system that is in operation on April 17, 1977 (180 days after the effective date of the new law) must record the following information in the Copyright Office no later than April 18, 1977: ¹

(a) "the identity and address of the person who owns or operates the secondary transmission service or has power to exercise primary control over it"; and

(b) "the name and location of the primary transmitter or primary transmitters whose signals are regularly carried by the cable system".

(2) Any system that begins operation after April 17, 1977, must record the specified information (quoted in the preceding paragraph) at least one month before the date operations commence. (As a transitional exception, the recording deadline for any system that starts operating between April 18, 1977, and May 18, 1977, is April 18, 1977.)

(3) After making the initial record (described in the preceding two paragraphs), the cable system must then make supplemental records "within thirty days after each occasion on which the ownership or control or the signal carriage complement of the cable system changes."

(4) In addition to the initial and supplemental records (described in the preceding three paragraphs), the cable system must record "thereafter, from time to time, such further information as the Register of Copyrights, after consultation with the Copyright Royalty Tribunal (if and when the Tribunal has been constituted), shall prescribe by regulation to carry out the purpose of this clause."

The main purpose of the proposed regulation is to make clear that the public records of the Copyright Office are open, well in advance of the first statutory deadline of April 18, 1977, to the initial recording of notices of identity and signal carriage required by section 111(d) (1). The Office's records will also be opened to the recording of the supplemental information required upon changes of ownership, control or signal carriage complement. It is proposed that the recording of these notices be covered by the addition of a new § 201.11 to the regulations of the Copyright Office. The proposed section pertains to the nature of the document to be filed and the action to be taken by the Copyright Office upon its receipt.

The proposed regulation is an interim measure. Section 111(d) (1) authorizes the Register of Copyrights to prescribe regulations under which, after the initial information has been recorded, the recording of "further information * * * to carry out the purpose of this clause" can be required. Moreover, the recording provisions of § 111(d) (1) are part of a larger statutory scheme of compulsory licensing under which cable systems will be required to record or file other information in the Copyright Office. Fairly extensive rulemaking proceedings, with the fullest possible public and industry participation, will be needed before the Copyright Office can prescribe in detail all of the information that cable systems must record under § 111 as whole. These pro-

¹ Since April 17, 1977 is a Sunday, the deadline for recording is the next business day.

For any secondary transmission to be subject to compulsory licensing under subsection (c), the cable system shall, at least one month before the date of the commencement

ceedings will be instituted in the near future, but they obviously cannot be concluded before the initial deadline of April 18, 1977.

For this reason the proposed regulation, in prescribing the requirements for recording an "initial notice" and a "notice of change", follows the express statutory language of section 111-(d) (1). At the same time, the proposed regulation contains suggestions as to how these requirements should appropriately be interpreted in practice, and further suggestions for additional information that should appropriately be included in the notices. These suggested interpretations and additional information are of the sort that can be expected to be included in future, definitive regulations prescribed under section 111 as a whole. By including them as suggestions in the proposal for an interim regulation, the Copyright Office hopes to encourage public comment on the issues they raise, and to reduce, at least to some extent, the amount of additional information required to be recorded under definitive regulations issued after April 18, 1977.

In addition to general comments on the points raised above, specific comments are invited upon the following:

(1) The Office has considered the possibility of cable systems recording copies of FCC Form 325, "Annual Report of Cable Television Systems", instead of separately prepared notices. It is noted, however, that (a) FCC Form 325 does not include the "location" of primary transmitters as required by § 111(d) (1); and (b) paragraph 4 of Schedule 2 to FCC Form 325 does not require identification of individual primary FM radio transmitters where the cable system carries all FM band signals.

(2) Attention is directed to the definition of signals "regularly carried" at page 95 of H.R. Rep. No. 94-1476, 94th Cong., 2d Sess. The report states that "signals 'regularly carried' by the system mean those signals which the Federal Communications Commission has specifically authorized the cable system to carry, and which are actually carried by the system on a regular basis." In preparing this proposal the Copyright Office has considered the phrase "specifically authorized" to include identification of any primary transmitter whose signals are actually carried by the cable system under the "authority" of any permissive or mandatory rule, regulation or authorization of the Federal Communications Commission, or in the absence of any prohibitory Commission rule or regulation, if the signals are carried on a regular basis. We have thus considered that (a) distinctions between categories of signals, such as radio and television, network and independent, commercial and noncommercial, and local and distant, are irrelevant for this purpose; but that (b) identification of primary transmitters whose signals are carried on a sporadic basis, such as under program substitution rules of the Federal Communications Commission, is not required.

Authority. This regulation is proposed under 17 U.S.C. 207 and 215, and under sections 111(d) (1) and 702 of Title 17 of

the United States Code as amended by Pub. L. 94-553.

Proposed Regulation. In consideration of the foregoing, it is proposed to amend Part 201 of 37 CFR chapter II by adding a new § 201.11 to read as follows:

§ 201.11 Notices of identity and signal carriage complement of cable systems.

(a) **Definitions.** (1) An "Initial Notice of Identity and Signal Carriage Complement" is a notice under section 111(d) (1) of Title 17 of the United States Code as amended by Pub. L. 94-553 and required by that section to be recorded in the Copyright Office "at least one month before the date of the commencement of operations of the cable system or within one hundred and eighty days after (October 19, 1976), whichever is later" for any secondary transmission by the cable system to be subject to compulsory licensing.

(2) A "Notice of Change of Identity or Signal Carriage Complement" is a notice under section 111(d) (1) of Title 17 of the United States Code as amended by Pub. L. 94-553 and required by that section to be recorded in the Copyright Office "within thirty days after each occasion on which the ownership or control or the signal carriage complement of the cable system changes" for any secondary transmission by the cable system to be subject to compulsory licensing.

(b) **Forms.** The Copyright Office does not provide printed forms for the use of persons recording Initial Notices or Notices of Change.

(c) **Contents.** (1) An Initial Notice of Identity and Signal Carriage Complement shall be identified as such by prominent caption or heading, and shall include the following:

(i) The identity and address of the person who, or entity which, owns or operates the cable system or has power to exercise primary control over it. It is suggested that the "identity" include the legal name of the person or entity, together with any fictitious or assumed name used for the purpose of conducting the business of the cable system, and that the "address" be given as the full mailing address of that person or entity. It is further suggested that the Notice include the legal name, fictitious or assumed name (if any), and full mailing address of the cable system if different from the above, together with the name of the community served by the system.

(ii) The name and location of the primary transmitter or primary transmitters whose signals are regularly carried by the cable system. It is suggested that the "name" of the primary transmitter be given by station call sign, accompanied by a brief statement of the type of signal carried (for example, "TV", "FM" or "AM"); and that the "location" of the primary transmitter be given as the name of the community to which the transmitter is licensed by the Federal Communications Commission (in the case of domestic signals) or with which the transmitter is identified (in the case of foreign signals).

(2) A Notice of Change of Identity or Signal Carriage Complement shall be clearly identified as such by prominent caption or heading, and shall include the information required by paragraph (c) (1) of this section. It is suggested that the notice also include a brief statement of the nature and date of the change which occasioned the recording of the notice.

(d) **Signature.** It is suggested that all Initial Notices and Notices of Change be dated and that they contain the individual signature of the person identified as the individual person who owns or operates the cable system or has power to exercise primary control over it, or by a duly authorized representative of that person; or, if an entity is identified as owning, operating, or controlling the system, the signature should be that of an officer if the entity is a corporation, or a partner if the entity is a partnership.

(e) **Recording in Copyright Office.** (1) The Copyright Office will record the Notices described in this section by placing them in the appropriate public files of the Office.

(2) Upon request and payment of a fee of \$3, the Copyright Office will furnish a certified receipt for any such Notice.

Dated: January 18, 1977.

BARBARA RINGER,
Register of Copyrights.

Approved by:

DANIEL J. BOORSTIN,
Librarian of Congress.

[FR Doc.77-2750 Filed 1-26-77;8:45 am]

TO: Revision Coordinating Committee

March 22, 1977

FROM: Gayle T. Harris, Chairperson
Registration Systems Task Group

SUBJECT: Registration Numbering System

We presently assign registration numbers within fifty-seven separate categories. The Registration Task Group has considered whether a more efficient and equally effective system can be devised and offers the following proposal.

I. THE PROPOSAL

We recommend that all works received in this office and cleared for registration after January 1, 1978 under the terms of the new law, be given a distinctive registration number in a single sequential series. The series would begin with "1" and continue to a maximum eight digit number of "99-999-999."

The registration number would be preceded by a letter indicating classification of a given work, although the letter designator will not be necessary for purposes of retrieval; the computer will be able to retrieve the record of registration by means of the number only.

In certain classes of materials, six-digit numbers are presently in use. An eight-digit number with the added convenience of dashes or strokes separating the parts into two, three and three digit sets, should not be significantly more difficult to handle visually. These dashes or strokes, however, are also unnecessary when "talking" to the computer.

Theoretically, each individual number could be preceded by a different classification indicator, e.g., A1234, D1235, E1236, etc. Admittedly, this could cause serious disruption of office procedures as cleared material is processed.

Success of the system depends upon batching of materials. As cleared materials leave Examining, they must be batched into classifications, accurately counted, and bundled. Batches might be in units of 10 or multiples thereof. When received by the registration Numbering Unit, the bundle count will determine the range of numbers to be assigned for use by individual numbering clerks. For example, suppose that the Numbering Unit received bundles of ten each, 3 of Class A, 5 of Class B, and 2 of Class G. The numbers for use might be assigned as follows:

Clerk 1 - Registration numbers A1-30
Clerk 2 - Registration numbers B31-80
Clerk 3 - Registration numbers G81-100.

Daily statistics for the Registration Numbering Unit may be obtained by tally of the numbers used in assigned ranges.

The numbered bundle, still in counted batches, are then transferred to Cataloging and are distributed according to classification.

Applications will, of course, be stored sequentially without regard for classification. We see no serious problem with this; in point of fact, it does seem to carry the advantage of reducing the time that loose applications of the smaller classes (e.g., KKfo, Hf, et al) must be stored before enough are secured to allow them to be bound.

Discussion has been held with Neal Boykin on the effects of this system on storage of materials at Pickett Street. Provided he receives a weekly record of materials sent to storage in the form of a computer printout, Neal seems to feel that the system offers no overriding difficulty.

II. ALTERNATIVES

The question of whether to include Renewals in such a system does not have unanimous agreement. Against including Renewals, the following points have been made:

1. Were Renewals included, there would be no numbered copy, causing gaps in the Deposit Copy Unit. It would be essential that history cards be completed and filed, and be immediately retrievable.

2. As renewed copyrights begin falling into the public domain, there may be advantages in having separate bound records of renewals which can be transferred out of the prime storage area.

3. Renewals and original registrations are different and unrelated actions and cannot be accounted for or identified by the same numbering series any more than assignments and notices of intention.

There has been some reasonably strong opinion in favor of including Renewals within the Single Numbering System by a representative of Reference Search. It is felt that:

1. Exclusion of Renewals would create yet another file, as we are attempting to reduce the number of files in which we store information, and thus

2. Ability to retrieve both Renewals and original registrations from the same source would be more efficient.

From an automation person, it is asserted that by not including Renewals in the system, this information will not be indefinitely available for on-line retrieval.

The final alternative to a single registration numbering system - it should be too obvious to even mention - is a Multiple Numbering System such as we presently operate under.

Given the related proposal for a new classification system, it should be evident that the present system would be significantly simplified by fewer numbering sequences, specifically in Classes A, B, BB, C, D, E, G, L, M, N and RF - in other words, 11 rather than 57 groupings.

III ADVANTAGES

Primary advantages of a Single Registration Numbering System may be identified as follows:

1. Works to the benefit of automated procedures by reducing time required for programming (already crucial if a new numbering system is to be operational by January 1, 1978), will simplify computer processing, reduce both terminal response time and strain on the computer in terms of time and space.

2. Will simplify filing and storage of application.

Will reduce chances of loose applications, kept over a number of years, being lost.

3. Will ease and reduce record-keeping of the

Registration Numbering Unit.

4. Will eliminate potential confusion between identical

numbers being used in different classes, i.e., regardless of the classification, one number can apply to only one registration.

IV DISADVANTAGES

The following concerns have been expressed at various points in our discussions:

1. That an eight-digit number might be too cumbersome for handling by Reference Searchers, and might tend to increase the margin of error.

2. That an error in batching as materials leave Examining could cause complications in Registration Numbering Unit.

3. That natural gaps in registration numbers (created by assigning ranges of numbers to different classes could make the identification of missing numbers impossible when compiling individual CCE's. In other words, one could not "eyeball" the entries in numerical sequence to determine whether any are omitted. It must be noted, however, that the Cataloging Task Group seems likely to recommend that catalogs no longer be compiled numerically, but by title.

It is recognized that the proposal of a single numbering system represents a fairly radical departure from the system(s) under which we have operated in the past. We would, therefore, appreciate further reasoned consideration of its application to the work of the Office.