

# Announcement

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

## ADVANCE NOTICE OF PROPOSED RULEMAKING

### COPYRIGHT OFFICE REQUESTS COMMENTS REGARDING RECORDATION AND CERTIFICATION OF COIN-OPERATED PHONORECORD PLAYERS

The following excerpt is taken from Volume 42, No. 61 of the Federal Register for Wednesday, March 30, 1977 (p. 16838).

[ 37 CFR Part 201 ]

[ Docket RM 77-4 ]

#### RECORDATION AND CERTIFICATION OF COIN-OPERATED PHONORECORD PLAYERS

##### Advance Notice of Proposed Rulemaking

AGENCY: Library of Congress, Copyright Office.

ACTION: Advance Notice of Proposed Rulemaking.

SUMMARY: This notice of proposed rulemaking is issued to advise the public that the Copyright Office of the Library of Congress is considering 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 recordation and certification of coin-operated phonorecord players. This notice is intended to elicit public comment, views, and information which will assist the Copyright Office in considering alternatives and formulating a tentative regulation to be later issued as a proposed rule for additional comment. Specific areas of inquiry are noted below.

DATES: Initial comments should be received on or before April 29, 1977. Reply comments on or before May 16, 1977.

ADDRESS: Interested persons should submit five copies of their written comments to: Office of the General Counsel, Copyright Office, Library of Congress, Washington, D.C. 20559.

#### FOR FURTHER INFORMATION, CONTACT:

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

SUPPLEMENTARY INFORMATION: Section 116 of the first section of Pub. L. 94-553 establishes circumstances under which operators of coin-operated phonorecord players—commonly referred to as "jukeboxes"—may obtain a compulsory license for the public performance of nondramatic musical works.

A compulsory license permits the use of a copyrighted work without the consent of the copyright owner, if certain conditions are met and royalties paid. Conditions of the compulsory license for coin-operated phonorecord players are set forth in section 116(b) (1) as follows:

(A) Before or within one month after such performances are made available on a particular phonorecord player, and during the month of January in each succeeding year that such performances are made available on that particular phonorecord player, the operator shall file in the Copyright Office, in accordance with requirements that the Register of Copyrights, after consultation with the Copyright Royalty Tribunal (if and when the Tribunal has been constituted), shall prescribe by regulation, an application containing the name and address of the operator of the phonorecord player and the manufacturer and serial number or other explicit identification of the phonorecord player, and deposit with the Register of Copyrights a royalty fee for the current calendar year of \$8 for that particular phonorecord player. If such performances are made available on a particular phonorecord player for the first time after July 1 of any year, the royalty fee to be deposited for the remainder of that year shall be \$4.

(B) Within twenty days of receipt of an application and a royalty fee pursuant to subclause (A), the Register of Copyrights shall issue to the applicant a certificate for the phonorecord player.

(C) On or before March 1 of the year in which the certificate prescribed by subclause (B) of this clause is issued, or within ten days after the date of issue of the certificate, the operator shall affix to the particular phonorecord player, in a position where it can be readily examined by the public, the certificate, issued by the Register of Copyrights under subclause (B), of the latest application made by such operator under subclause (A) of this clause with respect to that phonorecord player.

Section 116(b) (1) thus requires the Register of Copyrights to prescribe regulations governing the compulsory license application, and to develop a form of certificate to be affixed to licensed coin-operated phonorecord players. We have determined that it is desirable to secure public comment on these matters before adopting a proposed regulation or form of certificate. Comment is specifically invited upon the following issues:

(1) What information should be included in the application for a compulsory license under section 116(b) (1) (A)? What specific requirements should be made with respect to (a) identification of the name and address of the operator of the phonorecord player; and (b) means of identification of the phonorecord player other than its manufacturer and serial number?

(2) Should a single application from a particular operator be permitted to cover more than one phonorecord player?

(3) What information should be included in the certificate to be issued by the Copyright Office under section 116(b) (1) (B)?

(4) What should be the form and format of applications and certificates under section 116(b) (1) (A) and (B)?

(5) What records of applications and certificates should be made and maintained in the Copyright Office?

(6) Should the Copyright Office make provisions for replacement certificates in the event of loss, destruction, or the like? If so, under what circumstances and with what safeguards should replacement certificates be issued? Should a fee be imposed under section 708 (a) (11) for replacement certificates?

(7) Should the Copyright Office, upon request and payment of a fee under section 708 (a) (11), provide operators with a separate document evidencing or acknowledging certification of their phonorecord players which may be kept with their business records?

(8) What provisions, if any, should be made by the Copyright Office in the event of (a) sale or other transfer of a licensed phonorecord player during the period for which the certificate has been issued; (b) applications accompanied by checks or the like which prove uncollectable; and (c) multiple applications from a single operator, or (if permitted) a single application from a particular operator pertaining to more than one phonorecord player, accompanied by less than the total required fee?

Copies of all 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.

(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: §§ 116; 702; 708.)

Dated: March 23, 1977.

**BARBARA RINGER,**  
*Register of Copyrights.*

Approved:

**DANIEL J. BOORSTIN,**  
*Librarian of Congress.*

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