

# Announcement

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

## FINAL REGULATION

### NONDRAMATIC LITERARY WORKS; VOLUNTARY LICENSE TO PERMIT REPRODUCTION SOLELY FOR USE OF THE BLIND AND PHYSICALLY HANDICAPPED

The following excerpt is taken from Volume 42, No. 244 of the Federal Register for Tuesday, December 20, 1977 (pp. 63778-9).

410-03 ]

Title 37—Patents, Trademarks, and  
Copyrights

CHAPTER II—COPYRIGHT OFFICE,  
LIBRARY OF CONGRESS

[Docket EM 77-10]

PART 201—GENERAL PROVISIONS

Nondramatic Literary Works; Voluntary License To Permit Reproduction Solely for Use of the Blind and Physically Handicapped

AGENCY: Library of Congress, Copyright Office.

ACTION: Final Regulation.

**SUMMARY:** This notice is issued to advise the public that the Copyright Office of the Library of Congress is adopting a new regulation to implement section 710 of the Act for General Revision of the Copyright Law. That section directs the Register of Copyrights to establish procedures by which the owner of copyright in nondramatic literary works may, at the time of copyright registration, grant the Library of Congress a license to reproduce and distribute the work for the use of the blind and physically handi-

capped. The new regulation establishes the terms and conditions of these licenses.

**EFFECTIVE DATE:** January 1, 1978.

**FOR FURTHER INFORMATION CONTACT:**

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

**SUPPLEMENTARY INFORMATION:** One of the major programs of the Library of Congress is to provide Braille editions and special sound recordings of readings of works for the exclusive use of the blind and physically handicapped. In an effort to simplify and speed up the copyright procedures that are a necessary part of this program, section 710 of the first section of Pub. L. 95-553\* (90 Stat. 2541) provides for the establishment of a voluntary licensing system to be tied in with copyright registration. The license would permit the Library of Congress "to reproduce the work by means of Braille or similar tactile symbols, or by fixation of a reading of the work in a phonorecord, or both, and to distribute the resulting copies and phonorecords solely for use of the blind and physically handicapped".

On October 4, 1977 the Copyright Office published in the FEDERAL REGISTER (41 FR 53980) a proposal to adopt a new regulation § 201.15 establishing the form, duration, terms and conditions of the license. Ten initial and reply comments were received in response to the Notice of Proposed Rulemaking. While virtually all of the comments agreed in principle with the proposal, several suggested some modification. After careful consideration we have decided to promulgate proposed § 201.15 substantially without change. A discussion of the major substantive comments follows:

#### 1. EXTENSION OF SCOPE OF THE LICENSE

Several comments were received from organizations which provide services to blind and physically handicapped persons. Three comments urged that the final regulations allow reproduction and distribution by organizations other than the Library of Congress. These suggestions are beyond the authority of the Copyright Office. Section 710 of the Act refers only to a grant to the Library of Congress and does not include other organizations. This restriction is reflected in paragraphs (c) (1) and (3) of the regulations as proposed and adopted. Of course, nothing in the Act or regulations

\*Error; line should read: "of the first section of Pub. L. 94-553"

precludes such organizations from entering into licensing arrangements with copyright owners.

## 2. AUTHORITY TO GRANT LICENSE

The Authors League of America, Inc., and the Association of American Publishers, Inc. expressed concern that the party granting the license may not own the rights granted. Licenses under section 710 can be granted by "the copyright owner". The Act provides that copyright in a work belongs initially to the author of the work (including, in the case of a work made for hire, the employer or other person for whom the work was prepared). Thus, the person or organization entitled to grant a license to the Library of Congress is either the author of the work or a person or organization that has obtained ownership of the rights covered by the license from the author. There appears to be no need to state this in the regulations. As a matter of practice the Library of Congress will take appropriate steps to clear rights with all owners involved if there is any question as to the authority of the person signing the application.

## 3. NONEXCLUSIVE LICENSE

We have adopted the suggestion of The Authors League of America, Inc., that § 201.15(c)(6) make clear that a license granted under the regulations does not preclude the copyright owner from granting other exclusive licenses for the same purpose, on condition they are subject to the nonexclusive license granted to the Library of Congress.

The proposed regulation is adopted with the single change noted and is set forth below.

Dated: December 15, 1977.

BARBARA RINGER,  
Register of Copyrights.

Approved:

DANIEL J. BOORSTIN,  
Librarian of Congress.

Part 201 of 37 CFR, Chapter II is amended by adding a new § 201.15 to read as follows:

§ 201.15 Voluntary license to permit reproduction of nondramatic literary works solely for use of the blind and physically handicapped.

(a) *General.* (1) The "blind and physically handicapped" are persons eligible for special loan services of the Library of Congress, as designated by section 135a of title 2 of the United States Code as amended by Pub. L. 89-552 and regulations of the Library of Congress issued under that section.

(2) This section, and any license granted or exercised under this section, applies only to nondramatic literary works which have previously been published with the consent of the copyright owner.

(b) *Form.* The Copyright Office provides the following form as part of applications for registration of claim to

copyright in nondramatic literary works (Form TX):

### REPRODUCTION FOR USE OF BLIND OR PHYSICALLY HANDICAPPED PERSONS

Signature of this form at space-10 and a check in one of the boxes here in space 8, constitutes a nonexclusive grant of permission to the Library of Congress to reproduce and distribute solely for the blind and physically handicapped and under the conditions and limitations prescribed by the regulations of the Copyright Office: (1) copies of the work identified in space 1 of this application in Braille (or similar tactile symbols); or (2) phonorecords embodying a fixation of a reading of that work; or (3) both.

---- Copies only; ---- Phonorecords only;  
---- Copies and phonorecords.

(c) *Terms and conditions.* A copyright owner who consents to the use of a copyrighted work by the Library of Congress for the use of the blind and physically handicapped may accomplish this purpose by checking the appropriate box on the application form, by signing the application form as a whole, and by submitting the application for copyright registration to the Copyright Office. The copyright owner thereby grants a non-exclusive license to the Library of Congress with respect to the work identified in the application, under the terms and conditions set forth in this section.

(1) The work may be reproduced only by or on behalf of the Library of Congress.

(2) The work may not be reproduced in any other form than Braille (or similar tactile symbols), or by a fixation of a reading of the work in phonorecords specifically designed for use of the blind and physically handicapped, or both, as designated by the copyright owner on the application form.

(3) Such copies and phonorecords of the work may be distributed by the Library of Congress solely for the use of the blind and physically handicapped under conditions and guidelines provided by the Division for the Blind and Physically Handicapped of the Library of Congress.

(4) In the case of any conflict with any other right or license given by the copyright owner to the Library of Congress pertaining to the work, the terms and conditions most favorable to the Library of Congress for the benefit of the blind and physically handicapped shall govern.

(5) Copies and phonorecords reproduced and distributed under this license will contain identification of the author and publisher of the work, and copyright notice, as they appear on the copies or phonorecords deposited with the application.

(6) This license is nonexclusive, and the copyright owner is in no way precluded from granting other nonexclusive licenses with respect to reproduction for the use of the blind and physically handicapped, or exclusive licenses for the same purpose on condition they are subject to the nonexclusive license granted to the Library of Congress, or other exclusive or nonexclusive licenses or trans-

fers with respect to reproduction or distribution for other purposes.

(7) All responsibility for the clearing and exercise of the rights granted is that of the Library of Congress.

(d) *Duration of license.* (1) The license is effective upon the effective date of registration for the work and, subject to the conditions and procedures stated in paragraph (d)(2) of this section, continues for the full term of copyright in the work provided in section 302 of title 17 of the United States Code as amended by Pub. L. 94-553.

(2) Termination of the license may be accomplished by the copyright owner at any time by submitting a written statement of intent to terminate, signed by the copyright owner or by the duly authorized agent of the copyright owner, to the Division for the Blind and Physically Handicapped of the Library of Congress. Termination will become effective 90 days after receipt of the written statement, or at a later time set forth in the statement. Upon the effective date of termination the Library of Congress will be prohibited from reproducing additional copies of phonorecords of the work, or both, without the consent of the copyright owner, but copies or phonorecords, or both, reproduced under authority of the license before the effective date of termination may continue to be utilized and distributed under the terms of the license after its termination.

[FR Doc. 77-36189 Filed 12-19-77; 8:45 am]

\*Error; line should read: "from reproducing additional copies or"