

# Announcement

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

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## INTERIM REGULATIONS

### PART 201-GENERAL PROVISIONS

Corrections and Amplifications of Copyright Registrations; Import Statements; and Recordation of Transfers and Other Documents

The following excerpt is taken from Volume 43, No. 2 of the Federal Register for Wednesday, January 4, 1978 ( pp. 771-774).

Please note the interim regulations are effective January 1, 1978, however, comments can be received on or before March 31, 1978.

[ 1410-03 ]

[Docket RM 77-15]

#### PART 201—GENERAL PROVISIONS

**Corrections and Amplifications of Copyright Registrations; Import Statements; and Recordation of Transfers and Other Documents**

**AGENCY:** Library of Congress, Copyright Office.

**ACTION:** Interim Regulations.

**SUMMARY:** This notice is issued to advise the public that the Copyright Office of the Library of Congress is adopting an interim regulations to implement sections 205, 408(d), and 610(b)(2) of the Act for General Revision of the Copyright Law. Section 205 pertains to the recordation of transfers of copyright and other documents pertaining to a copyright; section 408(d) pertains to the filing of applications for supplementary registration to correct or amplify the information in an earlier registration; and section 601(b)(2) pertains to statements to be issued for the importation of copyrighted works in certain cases. The effect of the interim regulations is to establish requirements governing the recordation of documents, application for supplementary registration, and issuance of import statements under these sections.

These regulations are issued on an interim basis in order to allow persons to take action under the indicated sections of the statute, while permitting full public comment before the issuance of final regulations.

**DATES:** The interim regulations are effective on January 1, 1978. Comments should be received on or before March 31, 1978.

**ADDRESSES:** Five copies of all written comments should be provided, if by hand, to: Office of the General Counsel, U.S. Copyright Office, Library of Congress, Crystal Mall Building No. 2, room 519, Arlington, Va., or, if by mail to: Office of the General Counsel, U.S. Copyright Office, Library of Congress, Caller No. 2999, Arlington, Va. 22202.

Copies of all written comments 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 101, Crystal Mall, Building No. 2, 1921 Jegeron Davis \* Highway, Arlington, Va.

\*Error; line should read: "Building No. 2, 1921 Jefferson Davis"

**FOR FURTHER INFORMATION CONTACT:**

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

**SUPPLEMENTARY INFORMATION:**

(1) *Corrections and amplifications of copyright registrations; applications for supplementary registration.* Section 408 (d) of the first section of Pub. L. 94-553 (90 Stat. 2541) provides that the Register of Copyrights "may . . . establish, by regulation, formal procedures for the filing of an application for supplementary registration, to correct an error in a copyright registration or to amplify the information given in a registration." We are implementing this section, on an interim basis, by revising § 201.5 of the regulations of the Copyright Office. Although the interim regulation is essentially self explanatory, the following points should be noted:

(i) A supplementary registration is not a substitute for a renewal registration. For works originally copyrighted between January 1, 1950 and December 31, 1977, registration of a renewal claim within strict time limits is necessary to extend the first copyright term. This cannot be done by a supplementary registration. (A supplementary registration may be made to correct or amplify the information in a separate renewal registration under the conditions set forth in Interim § 201.5(b)(2)(iv).)

(ii) A supplementary registration is not a substitute for recording a document reflecting a transfer of copyright, or another document pertaining to a copyright. Recording the actual document under section 205 of the Act, and interim regulation § 201.4 (discussed below), has important legal consequences which are not achieved by supplementary registration.

(iii) A supplementary registration may be made to correct or amplify the information in any completed original or renewal registration, whether that registration was made before or after January 1, 1978.

(iv) In a Notice of Inquiry published on September 26, 1977 (42 FR 48944) we raised the possibility of making supplementary registration (in addition to recording a transfer) to reflect the ownership of rights, other than those owned by the claimant of the basic registration. Several comments received in response to that notice were strongly opposed to this suggestion. We agree that supplementary registration was not designed to reflect the allocation or division of rights under a copyright, and that to use it for that purpose would produce a confusing and inadequate public record. Accordingly, paragraphs (b)(ii) and (b)(iii) of interim § 201.5 make clear that supplementary registration is not appropriate for such purposes. (Similarly, the concept of "claimant" under a basic registration will, in a separate proceeding, adopt the basis of the comments made to the Notice of Inquiry).

(v) The interim regulation follows the statute in distinguishing between "corrections" (for example, where a work was given a wrong date of publication, or where an author's name was incorrectly given) and "amplifications" (for example, where a co-author was omitted, or the title of the work has been changed, or a clarification of a statement of additional matter in a new version is desired). We recognize that, in some cases, the line between these categories will not be entirely clear. As a practical matter, however, the Copyright Office will accept an application for supplementary registration clearly stating the necessary information, even if the Office differs with the applicant as to whether the change amounts to a "correction" or an "amplification".

(2) *Import Statements.* Section 601 of the new Act provides that, as a general rule, the copies of a work "consisting preponderantly of nondramatic literary material that is in the English language" must be manufactured in the United States or Canada in order to be lawfully imported and publicly distributed in the United States. There are a number of exceptions to this provision. One exception permits the importation of up to 2,000 copies of a foreign edition under an "import statement" issued by the Copyright Office to the copyright owner, or a person designated by the owner. We are implementing this section, on an interim basis, by revising § 201.8 of the regulations of the Copyright Office. The interim regulation is self-explanatory.

Under the law in effect before January 1, 1978, the Copyright Office issued import statements, at the time of "ad interim" copyright registration, to permit the importation of 1500 copies of certain works. We have considered whether the number of copies permitted to be imported in such cases should be increased by an additional 500 copies. Under the language of the new Act, however, statements permitting the importation of 2000 copies may only be issued "at the time of registration for the work under section 408 (of the new Act) or at any time thereafter." Since works for which import statements were issued before January 1, 1978 were not registered "under section 408 of the new Act", we are not persuaded that such an increase is authorized. (At the same time, interim § 201.8(a)(3) makes clear that import statements issued before January 1, 1978 remain valid.)

(3) *Recordation of transfers and other documents.* Section 205(a) of the Act permits the recordation, in the Copyright Office, of "any transfer of copyright ownership or other document pertaining to a copyright" if certain conditions of authenticity are met. Recordation will place the document in the public records of the Office, and has important legal consequences in certain cases. We are implementing this section, on an interim basis, by revising § 201.4 of the Copyright Office regulations. The interim regulation is self-explanatory.

(4) *Interim Basis.* The regulations issued under this notice are made effective on January 1, 1978 in order to allow persons to correct or simplify registrations, request and receive import statements, record documents, and secure the benefits of these actions immediately upon and after the effective date of the new Act. At the same time we wish to give the public an opportunity to comment on the regulations. Accordingly, they are issued on an interim basis and comments will be received until the date set forth above. After the close of the comment period, and after considering the comments and the experience of the Office under the interim regulations, final regulations will be issued.

**INTERIM REGULATIONS**

Part 201 of 37 CFR Chapter II is amended, on an interim basis: 1. By revising § 201.4 to read as follows:

**§ 201.4 Recordation of transfers and certain other documents.**

(a) *General.* (1) This section prescribes conditions for the recordation of transfers of copyright ownership and other documents pertaining to a copyright under section 205 of title 17 of the United States Code, as amended by Pub. L. 94-553. The filing or recordation of the following documents is not within the provisions of this section:

(i) Certain contracts entered into by cable systems located outside of the forty-eight contiguous states (17 U.S.C. 111(e); see 37 CFR 201.12);

(ii) Notices of identity and signal carriage complement, and statements of account, of cable systems (17 U.S.C. 111(d); see 37 CFR 201.11; 201.17);

(iii) Original, signed notices of intention to obtain compulsory license to make and distribute phonorecords of nondramatic musical works (17 U.S.C. 115(b); see 37 CFR 201.18);

(iv) License agreements, and terms and rates of royalty payments, voluntarily negotiated between one or more public broadcasting entities and certain owners of copyright (17 U.S.C. 118; see 37 CFR 201.9);

(v) Notices of termination (17 U.S.C. 203, 304(c); see 37 CFR 201.10); and

(vi) Statements regarding the identity of authors of anonymous and pseudonymous works, and statements relating to the death of authors (17 U.S.C. 302).

(2) A "transfer of copyright ownership" has the meaning set forth in section 101 of title 17 of the United States Code, as amended by Pub. L. 94-553. A document shall be considered to "pertain to a copyright" if it has a direct or indirect relationship to the existence, scope, duration, or identification of a copyright, or to the ownership, division, allocation, licensing, transfer, or exercise of rights under a copyright. That relationship may be past, present, future, or potential.

(b) *Recordable documents.* Any transfer of copyright ownership, or any other document pertaining to a copyright,

may be recorded in the Copyright Office if it is accompanied by the fee set forth in paragraph (c) of this section, and if:

(i) It is an original document bearing the actual signature or signatures of the persons who executed it; or it is a legible photocopy or other full size facsimile reproduction of an original, accompanied by a sworn certification,<sup>1</sup> signed by at least one of the persons who executed it or by an authorized representative of that person, or by an official certification,<sup>2</sup> that the reproduction is a true copy of the original, signed document; and

(ii) It is complete on its face, and includes any schedules, appendixes, or other attachments referred to in the document as being a part of it.

(c) *Fee.* For a document consisting of six pages or less covering no more than one title, the basic recording fee is \$10. An additional charge of 50 cents is made for each page over six and each title over one. For these purposes:

(i) A fee is required for each separate transfer or other document, even if two or more documents appear on the same page;

(ii) The term "title" generally denotes "appellation" or "denomination" rather than "registration", "work", or "copyright"; and

(iii) In determining the number of pages in a document, each side of a leaf bearing textual matter is regarded as a "page".

(d) *Recordation.* The date of recordation is the date when a proper document under paragraph (b) of this section and a proper fee under paragraph (c) of this section are all received in the Copyright Office. After recordation the document is returned to the sender with a certificate of record.

2. By revising § 201.8 to read as follows:

§ 201.8 Import statements.

(a) *General.* (1) Upon receipt of a proper request under paragraph (b) of this section, and a fee of \$3, the Copyright Office will issue import statements for works consisting preponderantly of nondramatic literary material that is in the English language, copies of which are to be imported into the United States under section 601(b)(2) of title 17 of the United States Code, as amended by Pub. L. 94-553.

<sup>1</sup> A sworn certification shall consist of an affidavit under the official seal of any officer authorized to administer oaths within the United States, or if the original is located outside of the United States, under the official seal of any diplomatic or consular officer of the United States or of a person authorized to administer oaths whose authority is proved by the certificate of such an officer, or a statement in accordance with section 1746 of title 28 of the United States Code.

<sup>2</sup> An official certification is a certification, by the appropriate government official, that the original of the document is on file in a public office and that the reproduction is a true copy or the original.

(2) After the issuance of an initial import statement for a work in accordance with a request made under paragraph (b) of this section, and upon receipt of a statement from an appropriate official of the United States Customs Service showing importation of less than two thousand copies of a work, the Copyright Office will issue an additional import statement permitting importation of the number of copies representing the difference between the number of copies already imported and two thousand copies. Additional import statements under this paragraph (a)(2) will be issued without request and shall not require payment of a fee.

(3) Any import statement issued by the Copyright Office before January 1, 1978 shall remain valid to permit the importation of the number of copies stated therein.

(b) *Requests for Import Statements and Issuance.* (1) Import statements will not be issued until after the effective date of registration for the work. However, a request for an import statement may be submitted simultaneously with an application for registration.

(2) Requests for import statements shall be made by the copyright owner of the work as shown in the records of the Copyright Office, or by the duly authorized agent of such owner. For the purpose of this section, the "copyright owner" is a person or organization that owns the exclusive right to import copies of the work into the United States at the time the request is made. The "copyright owner" may be either: (i) 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); or

(ii) A claimant, other than the author, identified in the registration for the work; or

(iii) A person or organization that has obtained ownership of one or more exclusive rights, initially owned by the author, including the exclusive right to import copies into the United States.

(3) Requests for import statements shall be made on a form prescribed by the Copyright Office, and shall contain the following information: (i) The title of the work;

(ii) The name or names of the author or authors of the work;

(iii) The name or names of the copyright claimants in the work;

(iv) If registration has already been made for the work, the registration number and effective date of registration;

(v) The full name, mailing address, and telephone number of an individual person who may be contacted if further information is needed;

(vi) The full name and mailing address of the person or entity to whom or which the statement is to be issued; and

(vii) A certification of the request. The certification shall consist of: (A) the handwritten signature of the copyright owner of the work as shown in the records of the Copyright Office, or the duly authorized agent of such copyright

owner (whose identity shall also be given); (B) the typewritten or printed name and address of such copyright owner or agent; (C) the date of signature; and (D) a statement that the person signing the request is the copyright owner or a duly authorized agent of the copyright owner, and that the Copyright Office is authorized to issue an import statement to the name and address given under paragraph (vi) of this § 201.8(b)(3).

(4) The form prescribed by the Copyright Office for the foregoing purposes is designated "Request for Issuance of an Import Statement under § 601 of the U.S. Copyright Law (Form IS)". Copies of the form are available free upon request to the Public Information Office, United States Copyright Office, Washington, D.C. 20559.

(5) After the effective date of registration for the work named in the request, the Copyright Office will issue an import statement permitting the importation of two thousand copies of the work to the name and address given under paragraph (vi) of this § 201.8(b)(3).

3. By revising § 201.5 to read as follows:

§ 201.5 Corrections and amplifications of copyright registrations; applications for supplementary registration.

(a) *General.* (1) This section prescribes conditions relating to the filing of an application for supplementary registration, to correct an error in a copyright registration or to amplify the information given in a registration, under section 408(d) of title 17 of the United States Code, as amended by Pub. L. 94-553. For the purposes of this section:

(i) A "basic registration" means any of the following: (A) a copyright registration made under sections 408, 409, and 410 of title 17 of the United States Code, as amended by Pub. L. 94-553; (B) a renewal registration made under section 304 of title 17 of the United States Code, as so amended; (C) a registration of claim to copyright made under title 17 of the United States Code as it existed before January 1, 1978; or (D) a renewal registration made under title 17 of the United States Code as it existed before January 1, 1978; and

(ii) A "supplementary registration" means a registration made upon application under section 408(d) of title 17 of the United States Code, as amended by Pub. L. 94-553, and the provisions of this section.

(2) No correction or amplification of the information in a basic registration will be made except pursuant to the provisions of this § 201.5. As an exception, where it is discovered that the record of a basic registration contains an error that the Copyright Office itself should have recognized at the time registration was made, the Office will take appropriate measures to rectify its error.

(b) *Persons entitled to file an application for supplementary registration:*

grounds of application. (1) Supplementary registration can be made only if a basic copyright registration for the same work has already been completed. After a basic registration has been completed, any author or other copyright claimant of the work, or the owner of any exclusive right in the work, or the duly authorized agent of any such author, other claimant, or owner, who wishes to correct or amplify the information given in the basic registration for the work may file an application for supplementary registration.<sup>2</sup>

(2) Supplementary registration may be made either to correct or to amplify the information in a basic registration. For the purposes of this section: (1) A "correction" is appropriate if information in the basic registration was incorrect at the time that basic registration was made, and the error is not one that the Copyright Office itself should have recognized:

(i) An "amplification" is appropriate: (A) to reflect additional information that could have been given, but was omitted, at the time basic registration was made; or (B) to reflect changes in facts, other than those relating to transfer, license, or ownership of rights in the work, that have occurred since the basic registration was made; or (C) to clarify information given in the basic registration;

(ii) Supplementary registration is not appropriate: (A) as an amplification, to reflect the ownership, division, allocation, licensing, or transfer of rights in a work, whether at the time basic registration was made or thereafter; or (B) to correct errors in statements or notices on the copies of phonorecords of a work, or to reflect changes in the content of a work; and

(iv) Supplementary registration to correct a renewal claimant or basis of claim in a basic renewal registration may be made only if the application for supplementary registration and fee are received in the Copyright Office within the statutory time limits for renewal. If the error or omission in a basic renewal registration is extremely minor, and does not involve the identity of the renewal claimant or the legal basis of the claim, supplementary registration may be made at any time. Supplementary registration is not appropriate to add a renewal claimant.

(c) *Form and content of application for supplementary registration.* (1) An application for supplementary registration shall be made on a form prescribed by the Copyright Office, shall be accompanied by a fee of \$10,<sup>3</sup> and shall contain the following information:

<sup>2</sup>If the person who, or on whose behalf, an application for supplementary registration is submitted is the same as the person identified as the copyright claimant in the basic registration, the Copyright Office will place a note referring to the supplementary registration on its records of the basic registration.

<sup>3</sup>The \$10 fee applies to all applications for supplementary registration, including those made to correct or amplify the information in a renewal registration.

(i) The title of the work as it appears in the basic registration, including previous or alternative titles if they appear;

(ii) The registration number of the basic registration;

(iii) The year when the basic registration was completed.

(iv) The name or names of the author or authors of the work, and the copyright claimant or claimants in the work, as they appear in the basic registration;

(v) In the case of a correction: (A) The line number and heading or description of the part of the basic registration where the error occurred; (B) a transcription of the erroneous information as it appears in the basic registration; (C) a statement of the correct information as it should have appeared; and (D) if desired, an explanation of the error or its correction;

(vi) In the case of an amplification: (A) The line number and heading or description of the part of the basic registration where the information to be amplified appears; (B) a clear and succinct statement of the information to be added; and (C) if desired, an explanation of the amplification;

(vii) The name and address: (A) To which correspondence concerning the application should be sent; and (B) to which the certificate of supplementary registration should be mailed; and

(viii) A certification. The certification shall consist of: (A) the handwritten signature of the author, other copyright claimant, or owner of exclusive right(s) in the work, or of the duly authorized agent of such author, other claimant or owner (who shall also be identified); (B) the typed or printed name of the person whose signature appears, and the date of signature; and (C) a statement that the person signing the application is the author, other copyright claimant or owner of exclusive right(s) in the work, or the authorized agent of such author, other claimant, or owner, and that the statements made in the application are correct to the best of that person's knowledge.

(2) The form prescribed by the Copyright Office for the foregoing purposes is designated "Application for Supplementary Copyright Registration (Form CA)". Copies of the form are available free upon request to the Public Information Office, United States Copyright Office, Library of Congress, Washington, D.C. 20559.

(3) Copies, phonorecords, or supporting documents cannot be made part of the record of a supplementary registration and should not be submitted with the application.

(d) *Effect of supplementary registration.* (1) When a supplementary registration is completed, the Copyright Office will assign it a new registration number in the appropriate class, and issue a certificate of supplementary registration under that number.

(2) As provided in section 402(d) of title 17, the information contained in a supplementary registration augments but does not supersede that contained in

the basic registration. The basic registration will not be expunged or cancelled.

(17 U.S.C. 207, and under the following sections of Title 17 of the United States Code as amended by Pub. L. 94-523; § 1206; 408 (d); 601 (b); 702; 708.)

Dated: December 29, 1977.

BARBARA RINGER,  
Register of Copyrights.

Approved:

DANIEL J. BOORSTIN,  
Librarian of Congress.

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