



# ANNOUNCEMENT

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

## FINAL REGULATIONS

### PART 201-GENERAL PROVISIONS

#### RECORDATION OR TRANSFERS AND OTHER DOCUMENTS

The following excerpt is taken from Volume 43, No. 153 of the Federal Register for Tuesday, August 8, 1978 (pp. 35044-35045).

[1410-03]

#### Title 37—Patents, Trademarks, and Copyrights

#### CHAPTER II—COPYRIGHT OFFICE, LIBRARY OF CONGRESS

[Docket RM 77-15; Rules Doc. A]

#### PART 201—GENERAL PROVISIONS

#### Recordation of Transfers and Other Documents

AGENCY: Library of Congress, Copyright Office.

ACTION: Final regulations.

SUMMARY: This notice is issued to advise the public that the Copyright Office of the Library of Congress is adopting a final regulation to implement section 205 of the act for general revision of the copyright law. That section concerns the recordation of transfers of copyright and other documents pertaining to a copyright. The effect of the regulation is to establish requirements governing the recordation of documents.

DATE: The regulation is effective on September 7, 1978.

#### FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION: Section 205(a) of title 17, U.S.C. 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. On January 4, 1978 (43 FR 771) we published an interim amendment to § 201.4 of our regulations to implement this section. Interested parties were given until March 31, 1978, to comment on the interim amendment.

One comment, from the Authors League of America, Inc., was received in response to our notice.<sup>1</sup> This comment urged that we modify our regulation to refer explicitly to the recordation of a "note or memorandum" (17 U.S.C. 204(a)) of a transfer of copyright ownership.<sup>2</sup> Although a "note or memorandum" of a transfer was subject to recordation under the language of the interim amendment, for purposes of clarity we have accepted this suggestion: Paragraph (c) (formerly paragraph (b)) of § 201.4 has been revised to incorporate the language of 17 U.S.C. 204(a). The Authors League also requested clarification of the meaning of the requirement that a document submitted for recordation be "complete on its face, and include

<sup>1</sup>We have also received a helpful letter from E. Fulton Brylawski, Esq., containing a number of suggestions for dealing with our procedures in the recordation of documents. These suggestions are under active review but, since they essentially concern matters of workflow and internal processing, they are being considered separately from this regulatory proceeding.

<sup>2</sup>17 U.S.C. 204(a) provides: "A transfer of copyright ownership, other than by operation of law, is not valid unless an instrument of conveyance, or a note or memorandum of the transfer, is in writing and signed by the owner of the rights conveyed or such owner's duly authorized agent."

any schedules, appendixes, or other attachments referred to in the document as being a part of it." We have revised the regulation to reflect in some detail our actual practices in this area.

We have also added two new paragraphs to the regulation. The first (§ 201.4(b)) makes clear that the Copyright Office does not provide printed forms for the recordation of documents. The second new paragraph (§ 201.4(c)(3)) requires that documents submitted must be "legible and capable of being reproduced in legible microform copies." The Copyright Office currently maintains its records of transfers and other documents on microfilm. This requirement is intended to insure not only that the document submitted can be read for purposes of examining and cataloging, but also that it can produce a legible microform copy to serve as a permanent public record.

We have deleted the requirement, in § 201.4(c)(i), that the document submitted must be an "original" since that term is ambiguous; it is the presence of a handwritten signature on the document, not the physical nature of the document itself, that is the key to recordability. A signed copy of the document (sometimes called a duplicate original) is perfectly acceptable for recordation.

The interim regulation, as amended, is adopted as final, and is set forth below.

Dated: July 26, 1978.

BARBARA RINGER,  
*Register of Copyrights.*

Approved:

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

FINAL REGULATIONS

Part 201 of 37 CFR Chapter II is

amended 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 48 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 or rights under a copyright. That relationship may be past, present, future, or potential.

(3) For purposes of this section:

(i) A "sworn certification" is 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; and

(ii) 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.

(b) *Forms.* The Copyright Office does not provide forms for the use of persons recording documents.

(c) *Recordable documents.* Any transfer of copyright ownership (including any instrument of conveyance, or note or memorandum of the transfer), 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 (d) of this section, and if the requirements of this paragraph with respect to signatures, completeness, and legibility are met. (1) To be recordable, the document must bear the actual signature or signatures of the person or persons who executed it. Alternatively, the document may be recorded if it is a legible photocopy or other full-size facsimile reproduction of the signed document, accompanied by a sworn certification or an official certification that the reproduction is a true copy of the signed document. Any sworn certification accompanying a reproduction shall be signed by at least one of the persons who executed the document, or by an authorized representative of that person.

(2) To be recordable, the document must be complete by its own terms. (i) A document that contains a reference to any schedule, appendix, exhibit, addendum, or other material as being attached to the document or made a part of it shall be recordable only if the attachment is also submitted for recordation with the document or if the reference is deleted by the parties to the document. If a document has been submitted for recordation and has been returned by the Copyright Office at the request of the sender for deletion of the reference to an attachment, the document will be recorded only if the deletion is signed or initialed by the persons who executed the document or by their authorized representatives. In exceptional cases a document containing a reference to an attachment will be recorded without the attached material and without deletion of the reference if the person seeking recordation submits a written request specifically asserting that: (A) The attachment is completely unavail-

able for recordation; and (B) the attachment is not essential to the identification of the subject matter of the document; and (C) it would be impossible or wholly impracticable to have the parties to the document sign or initial a deletion of the reference. In such exceptional cases, the Copyright Office records of the document will be annotated to show that recordation was made in response to a specific request under this paragraph.

(ii) If a document otherwise recordable under this indicates on its face that it is a self-contained part of a larger instrument (for example: if it is designated "Attachment A" or "Exhibit B"), the Copyright Office will raise the question of completeness, but will record the document if the person requesting recordation asserts that the document is sufficiently complete as it stands.

(iii) When the document submitted for recordation merely identifies or incorporates by reference another document, or certain terms of another document, the Copyright Office will raise no question of completeness, and will not require recordation of the other document.

(3) To be recordable, the document must be legible and capable of being reproduced in legible microform copies.

(d) *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:

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

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

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

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

(17 U.S.C. 205, 702, 708.)

[FR Doc. 78-21942 Filed 8-7-78; 8:45 am]

\*Error; line should read:  
203, 304(c); see 37 CFR 201.10); and