



# ANNOUNCEMENT

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

REQUEST FOR INFORMATION; NOTICE OF HEARING

REQUEST FOR INFORMATION; NOTICE OF HEARING,  
NEW TECHNOLOGY AND AUDIOVISUAL WORKS.

The following excerpt is taken from Volume 53, Number 101 of  
the Federal Register for Wednesday, May 25, 1988 (pp.18937-18938)

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## LIBRARY OF CONGRESS

### Copyright Office

(Docket RM 88-3)

#### Request for Information; Notice of Hearing, New Technology and Audiovisual Works

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

**ACTION:** Request for information; notice  
of hearing, new technology and  
audiovisual works.

**SUMMARY:** The Copyright Office of the  
Library of Congress issues this request  
for information to advise the public that  
it is inquiring and intends to hold a  
public hearing on issues concerning how  
new technologies such as colorization,  
time compression, and panning-and-  
scanning affect the creation and uses of  
audiovisual works, including motion  
pictures and television programming.  
This notice invites participation in a  
public hearing intended to elicit  
comments, views, and information that  
will assist the Office in understanding  
the extent of the present use of these  
new technologies in conjunction with  
audiovisual works, the problems, if any,  
that this technology may create for both  
the integrity of our national film heritage  
and the creative freedom of filmmakers,  
as well as the extent such technologies  
are expected to be used in the future  
and their impact on consumers, artists,  
producers, distributors, and other  
affected individuals and industries.  
Written comments are also solicited.

The Office particularly invites  
comment from or participation by

representatives of organizations of  
individuals involved in creating  
audiovisual works; with distributors,  
broadcasters and other commercial  
interests that exploit such works or own  
copyright interests in them; with  
consumers, institutional film collectors,  
archivists, academics, libraries, and  
government agencies.

**DATE:** The hearing will be held on  
September 8, 1988 in Washington, DC.  
Anyone desiring to testify should  
contact the Office of the Register of  
Copyrights at (202) 287-8350 by August  
24, 1988. Ten copies of written  
statements should be submitted to the  
Copyright Office by 4:00 p.m. on August  
17, 1988, if possible, and in any case no  
later than August 24, 1988. Written  
comments are also invited from persons  
who do not wish to testify, and should  
be submitted by September 22, 1988.

**ADDRESSES:** The hearing will be held on  
September 8, 1988 in the Mumford Room  
of the James Madison Memorial Building  
(LM-649), Sixth Floor, Library of  
Congress, First and Independence  
Avenue, SE., Washington, DC,  
beginning at 9:30 a.m.

Ten copies of written statements,  
supplementary statements, or comments  
should be submitted as follows:

If sent by mail: Library of Congress,  
Department 100, Washington, DC 20540.

If delivered by hand: Office of the  
Register of Copyrights, Copyright Office,  
James Madison Memorial Building,  
Room 403, First and Independence  
Avenue, SE., Washington, DC 20559.

All requests to testify should clearly  
identify the individual or group desiring  
to testify.

#### FOR FURTHER INFORMATION CONTACT:

William Patry or Eric Schwartz, Policy  
Planning Advisors to the Register of  
Copyrights, Copyright Office, Library of  
Congress, Washington, DC 20559.  
Telephone: (202) 287-8350.

**SUPPLEMENTARY INFORMATION:** At the  
request of the Subcommittee on Courts,  
Civil Liberties and the Administration of  
Justice of the House Committee on the  
Judiciary, the Copyright Office is  
conducting an inquiry and preparing a  
report on the effect new technologies  
such as colorization, time compression,  
and panning-and-scanning have on the  
creation and exploitation of audiovisual  
works, including motion pictures and  
television programming.

On June 22, 1987 the Copyright Office  
issued a Notice of Registration Decision  
regarding claims to copyright in certain  
computer-colored versions of black  
and white motion pictures. 52 FR 23443-  
23446. The Notice informed the public  
that, after having received and reviewed  
46 comments about the nature of  
claimed authorship in and the process of  
creating computer-colored versions of  
black and white motion pictures, the  
Office had concluded that some  
computer-colored films may contain  
sufficient authorship to justify  
registration. The standard to be applied  
in determining whether the color added  
to a black and white motion picture  
satisfies the originality standard for  
protection is that which already applies  
to all other derivative works: i.e.,  
modifications "which, as a whole,  
represent an original work of  
authorship." 17 U.S.C. 101 (definition of  
"derivative work"). The notice then  
enumerated five criteria the Office

would apply in determining whether the coloring of a particular black and white film is a modification that satisfies this statutory standard. The Notice of Registration Decision noted that registration determinations cannot be made on aesthetic grounds and, accordingly, that aesthetic or moral arguments about the propriety of coloring black and white films did not form any part of the inquiry.

On June 24, 1987, the Office published a separate notice of proposed rulemaking regarding the deposit requirements for colorized versions of black and white motion pictures. 119 FR 23691-23692.

This notice does not seek additional comments regarding the registrability of computer-colored versions of black-and-white audiovisual works. Instead, it seeks information concerning the nature, extent, and effect of these new technologies on creators, distributors, and the public.

Specifically, the Office seeks comments in the following areas:

#### 1. Nature and Impact of the Technology

The Office would appreciate information regarding:

a. Description of the technologies of colorization, time compression, and panning-and-scanning and how and why these techniques are utilized after the creation of an audiovisual work.

b. What considerations are taken into account in deciding whether to use these technologies—commercial, aesthetic, or other factors? How does the use of these technologies affect the integrity of and economic rewards flowing to those involved in the creation of the original work (including but not limited to the director, producer, actors, cinematographers, screenplay authors,

soundtrack composers, and set designers)? Have these individuals objected to the use of these technologies, and, if so, how have the objections been resolved?

c. What is the present extent of the use of the technologies and what is the present impact of the technologies on those involved in the distribution of the original and the altered versions of the work? What is the projected future use and impact of these technologies? Are there similar technologies currently in the planning or development stages, and, if so, what is their projected use and impact?

d. What is the impact of the new technologies on public access to audiovisual works? Do they increase or decrease demand for or availability of the original? Do the new technologies have different impact depending upon the medium of distribution; e.g., theatrical distribution, home videocassette sale or rental, and cable or other pay TV mechanisms?

#### 2. Contractual Practices

Do existing contractual or collective bargaining agreements govern the nature and extent of the use of the new technologies, and if not, why not? Are there differences in contract provisions negotiated by established creators and those negotiated by lesser-known artists?

#### 3. Foreign Practices

Have foreign countries addressed any of the issues raised by these new technologies, and if so, how, and are these foreign practices relevant or applicable to practices in the United States?

#### 4. Possible Future Legislative Action

Is there a need for additional legislation to solve the problems caused by the new technologies or should the private contractual or collective bargaining process be relied upon? Would additional legislation upset existing contractual relationships or raise constitutional issues with respect to restrictions on the exploitation of existing rights? If legislation is believed to be necessary and appropriate, what form should it take—federal (e.g., amendments to the Copyright Act or the Lanham Act) or state (e.g., state moral rights statutes) and who should be protected—only the principal director or screenwriter of the original work, or all others involved in the creative process, e.g., the actors, the cinematographers, the screenplay authors, the soundtrack composers, and the set designers? Is it possible or desirable to distinguish between works which should be protected? Should protection be limited to recognized classics, and, if so, how should it be determined if a work is a classic or otherwise deserving of protection?

Copies of all comments received will be available for public inspection and copying between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday, in Room 401, James Madison Memorial Building, Library of Congress, First and Independence Avenue, SE., Washington, DC 20559.

Dated: May 13, 1988.

Approved:

**James H. Billington,**

*The Librarian of Congress.*

[FR Doc. 88-11705 Filed 5-24-88; 8:45 am]

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