



ANNOUNCEMENT

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

NOTICE OF CHANGE IN PROCEDURE

MANDATORY DEPOSIT; NEW PROCEDURE FOR REQUESTING PROMPT EXERCISE OF RIGHT TO DEMAND UNDER THE MOTION PICTURE AGREEMENT

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LIBRARY OF CONGRESS

Copyright Office

Mandatory Deposit; New Procedure for Requesting Prompt Exercise of Right To Demand Under the Motion Picture Agreement

AGENCY: Library of Congress, Copyright
Office.

ACTION: Notice of change in procedure.

SUMMARY: This notice informs the public of a change in procedure regarding the processing of requests for prompt exercise of the Librarian's contractual right to demand return of motion pictures pursuant to paragraph 5(a) of the Motion Picture Agreement. Under paragraph 5(a), when a depositor submits a written request asking the Library promptly to exercise its right to demand, the Library has 90 days to respond. Under the new procedures, written requests under paragraph 5(a) must be addressed directly to the Deposits and Acquisitions Division of the Copyright Office.

EFFECTIVE DATE: June 10, 1988.

FOR FURTHER INFORMATION CONTACT:
Dorothy Schrader, General Counsel,
Copyright Office, Library of Congress,
Washington, DC 20559. Telephone: (202)
287-8380.

SUPPLEMENTARY INFORMATION: Under the Copyright Act of 1976, Title 17 U.S.C. 407, the owner of copyright, or of the exclusive right of publication, in a work published with notice of copyright in the United States is required to deposit two

copies of the work in the Copyright Office for the use or disposition of the Library of Congress. Section 408 also requires deposit of two copies of published works in connection with applications for copyright registration. By establishing deposit requirements, Congress intended to provide a useful legal record of the copyrighted work that meets both the practical needs of depositors and the acquisitions needs and wants of the Library. In keeping with these policies, the statute authorizes the Copyright Office of issue regulations liberalizing the deposit requirements. With respect to motion pictures, the regulations permit the deposit of only one copy.

In addition to reducing the number of copies to be deposited, the Library and the Copyright Office in cooperation with motion picture industry representatives developed a contract known as the Motion Picture Agreement to allow permanent deposit of motion pictures on a delayed basis when the commercial marketing of prints has somewhat abated. The Agreement, available since 1946 except for a short period during initial implementation of the 1976 Copyright Act, provides that a motion picture may be returned to the depositor in exchange for a contractual promise to deposit, upon demand, a best edition copy of archival quality.

The Agreement places time restrictions upon the Library's discretion to issue a demand for an archival copy. Under paragraph 5 of the Agreement, discretion to issue a demand is limited to one of two circumstances. Under paragraph 5(a), when a depositor, within two years from deposit, submits a

written request asking the Library promptly to exercise its right to issue a demand, the Library has 90 days to decide whether to issue a demand. If no paragraph 5(a) request is made by the depositor, paragraph 5(b) authorizes a two-year period from the date of the deposit for the Library to decide whether to issue a demand.

In order to invoke the procedure requiring prompt exercise of the Library's right to demand, many depositors have included the request with the deposit materials submitted to the Examining Division of the Copyright Office in connection with registration of the claim to copyright. Since the decision to issue a demand is made by another operating division—the Deposits and Acquisitions Divisions of the Copyright Office—the failure to provide this Division with direct notice has created problems in meeting the 90-day deadline.

In order successfully to carry out the responsibilities of paragraph 5(a) of the Motion Picture Agreement, it is necessary that the Deposit and Acquisitions Division receive directly the request for prompt exercise of demand. Therefore, the Library is announcing new procedures.

Beginning immediately, all written requests under paragraph 5(a) of the Motion Picture Agreement must be sent directly to the Deposits and Acquisitions Division, Attention: Motion Picture Administrative Assistant, Copyright Office, Library of Congress, Washington, DC 20559. The content of the request shall include the title of the work(s)

covered by the request, printed descriptive material about each work, and a reference to paragraph 5(a) of the Motion Picture Agreement. If the request is submitted simultaneously with motion picture registration materials, a carbon copy of the request must be included with the required registration materials.

Dated: May 9, 1988.

Ralph Oman,

Register of Copyrights.

Approved by.

James H. Billington,

The Librarian of Congress.

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