



ANNOUNCEMENT

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

ANNOUNCEMENT OF AMENDED LITIGATION STATEMENT FORM

REQUEST FOR REPRODUCTION OF COPIES, PHONORECORDS, OR IDENTIFYING MATERIAL DEPOSITED IN CONNECTION WITH COPYRIGHT REGISTRATION

The following excerpt is taken from Volume 56, Number 60 of the Federal Register for Thursday, March 28, 1991 (p. 12957)

LIBRARY OF CONGRESS

Copyright Office

Request for Reproduction of Copies, Phonorecords, or Identifying Material Deposited in Connection with Copyright Registration

AGENCY: Copyright Office, Library of Congress.

ACTION: Announcement of amended Litigation Statement Form.

SUMMARY: The Copyright Office grants requests for certified or uncertified copies, phonorecords, or identifying material deposited in connection with a copyright registration of published or unpublished works in the custody of the Copyright Office under the conditions specified in its regulations. Notice is hereby given that a written request from an attorney or authorized representative for copies, phonorecords, or identifying material on behalf of either the plaintiff or defendant in connection with litigation, actual or prospective, must be made on an amended "Litigation Statement" available from the Office.

DATES: The amended Litigation Statement is now in use.

FOR FURTHER INFORMATION CONTACT: Dorothy Schrader, General Counsel's Office, U.S. Copyright Office, Library of Congress, Department 17, Washington, DC 20540. (202) 707-8380

SUPPLEMENTARY INFORMATION: The Copyright Office has amended its Litigation Statement to reflect more accurately the requirements of Office regulations concerning requests for reproductions, for litigation purposes, of copies, phonorecords, or identifying

material deposited in connection with copyright registration.

Section 701(d) of the Copyright Act exempts section 706(b), concerning copies or reproductions of deposited articles, and the regulations made thereunder from the Administration Act¹ of June 11, 1946, as amended (c. 324, 60 Stat. 237 title 5, United States Code, chapter 5, subchapter II and chapter 7). Section 706(b) provides that "[C]opies or reproductions of deposited articles retained under the control of the Copyright Office, shall be authorized or furnished only under the conditions specified by the Copyright Office regulations."

Copyright Office regulations authorizing the making or furnishing of copies of deposits, 37 CFR chapter II, section 201.2(d)(2), provide that requests for reproductions of deposits will be granted only when one of the following three conditions has been met:

1. The Copyright Office receives written authorization from the copyright claimant of record or his or her designated agent, or from the owner of any of the exclusive rights in the copyright as long as this ownership can be demonstrated by written documentation of the transfer of ownership.

2. The Copyright Office receives a written request from an attorney on behalf of either the plaintiff or defendant in connection with litigation, actual or prospective, involving the copyrighted work. . . .

3. The Copyright Office receives a court order for reproduction of the deposited copies, phonorecords, or identifying material of a registered work which is the subject of litigation. The order must be issued by a court having jurisdiction of the case in which the reproduction is to be submitted as evidence.

All litigation requests must contain the following information:

1. The names of all the parties involved and the nature of the controversy;

2. The name of the court in which the actual case is pending or, in the case of a prospective proceeding, a full statement of the facts of the controversy in which the copyrighted work is involved; and

3. Satisfactory assurance that the requested reproduction will be used only in connection with the specified litigation.

The Copyright Office has recently become aware that an attorney completing the previous Litigation Statement form provided by the Office could generally allege that a controversy existed when in fact no real controversy did exist. An attorney could thus receive reproductions of deposits not authorized by the regulations. The Litigation Statement form has been amended to require the applicant to give more specific information regarding prospective proceedings and to include supporting documentation.

The amended Litigation Statement form requires an affirmation from the requestor that a controversy does exist, that the reproduction(s) will be used only in connection with actual or prospective litigation, and that the requestor acknowledges that any other use of the copy or reproduction would be in violation of the regulations of the Copyright Office and may be a criminal offense.

The amended Litigation Statement form still contains a reprint of § 201.2(d)(2) of the regulations of the Copyright Office governing the request for copies, but it now also contains a reprint of section 1001 of title 18 of the United States Code which makes it a crime to knowingly and willfully falsify, conceal or cover up by trick, scheme, or device a material fact in any matter within the jurisdiction of any department or agency of the United

¹Error; line should read: "thereunder from the Administrative Procedure Act"

States. In order for the Office to process the request, the Litigation Statement must contain an original signature and all requested information.

Dated: March 21, 1991.

Ralph Oman,

Register of Copyrights.

[FR Doc. 91-7268 Filed 3-27-91; 8:45 am]

BILLING CODE 1410-07-01