



ANNOUNCEMENT

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

POLICY DECISION

RECORDATION OF DOCUMENTS

The following excerpt is taken from Volume 57, Number 117 of the Federal Register for Wednesday, June 17, 1992 (pp. 27074-27075)

LIBRARY OF CONGRESS

Copyright Office

(Docket No. 92-1)

Policy Decision^a

AGENCY: Library of Congress; Copyright Office.

ACTION: Policy Decision.

SUMMARY: The Copyright Office records transfers and other documents relating to copyright under the Copyright Act, and documents relating to mask works under the Semiconductor Chip Protection Act of 1984. The administration of the recordation functions are governed by sections 203, 205, 302(c) and 304(c) of the Copyright Act and section 903(b) of the Semiconductor Chip Act^b

Regulations issued by the Copyright Office under authority of the Copyright Act are found in 37 CFR 201.4, 201.10, 201.25, and 201.26. No regulations concerning recordation have been issued under the Semiconductor Chip Act. In addition, the Office issued chapter 16 of the Compendium of Copyright Office Practices II covering practices for the recordation of documents in 1984. This announcement is to inform the public that the Office continues to record only those documents meeting statutory and regulatory requirements, but no longer examines documents for compliance with all of the requirements set out in chapter 16 of Compendium II.

EFFECTIVE DATE: June 17, 1992.

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

SUPPLEMENTARY INFORMATION: The Compendium of Copyright Office Practices II is a manual of practices intended primarily for use of the staff of the Copyright Office as a general guide to its examination of claims to copyright, recordation of documents, and related practices. It is not a book of rules meant to provide a ready-made answer to all registration or recordation questions that could arise. The practices of the Copyright office are subject to^c constant review and modification in the light of new experience and continuing reappraisal. Accordingly, additions, deletions, and amendments to practices are made from time to time.

This Policy Decision announces new practices with respect to recordation of documents pertaining to copyright.

In the past, the Office would examine a document not merely for compliance with the requirements of the Copyright Act and Office regulations. As a service to the public and in the interest of creating an accurate record, the Office would to a limited extent also examine the document for formal sufficiency, i.e., that it did not obviously fail to satisfy the legal requirements to be an effective document. The practices the Office followed in this regard are among those included in chapter 16 of Compendium II. This depth of examination is necessarily time consuming and labor

intensive especially given the complexity and size of some documents.

The Office has recently reassessed its practices concerning recordation of documents with a view to minimize delays in the recordation process. The Office has experienced a substantial increase in the number of documents submitted for recordation in the last few years, especially after the decision in *National Peregrine, Inc. v. Capital Federal Savings and Loan Association of Denver*, 116 B.R. 194 (C.D. Cal. 1990). That case held that the Copyright Act preempts the recordation provisions of article Nine of the Uniform Commercial Code which specified recordation in the states of "security interests" in copyrighted works. "Security interest" documents are among some of the more complex documents the Office receives.

The Office generally does not attempt to judge the legal sufficiency or interpret the substantive content of any document submitted for recordation. In the past it has, however, screened the document for obvious errors or discrepancies and brought these to the attention of the remitter, without refusing to record the document as submitted. Because of the increased number and complexity of documents submitted for recordation, the Office can no longer screen the documents for content and engage in correspondence with the remitter over apparent problems with the sufficiency of the document.

The Copyright Office continues to require that all documents must meet the requirements of the Copyright Act (or the Semiconductor Chip Protection

^aError; line should read:
"Policy Decision: Recordation of Documents"

^bError; line should read:
"Semiconductor Chip Act."

^cError; line should read:
"of the Copyright Office are subject to"

Act, if applicable), and regulations which are applicable to the type of document submitted for recordation. Chapter 16 of Compendium II is hereby withdrawn and will be replaced in due course by a revised chapter 16. In submitting documents for recordation, the public should comply with the Copyright Act (or the Semiconductor Chip Protection Act, if applicable), especially 17 U.S.C., 203, 205, 302(c), 304(c), and 903(b), and also with Copyright Office regulations, 37 CFR, 201.4, 201.10, 201.25, and 201.26.

In the case of section 205 transfers (which constitute the bulk of recordable documents), the statutory and regulatory requirements can be summed up as follows. Any transfer of copyright

ownership or any other document pertaining to a copyright may be recorded if: (1) The document bears the actual signature of the person who executed it, or if the document is accompanied by a sworn or official certification that it is a true copy of the original signed document; (2) the document is complete by its own terms or otherwise recordable; (3) the document is legible and capable of reproduction in legible microform copies; and (4) it is accompanied by the statutory recording fee.

Members of the public who submit documents for recordation cannot rely on the Copyright Office to screen their documents for even obvious errors in formal sufficiency. The public is

therefore cautioned to review and scrutinize any document to assure its formal sufficiency before submitting it to the Copyright Office for recordation. The Copyright Office will record the document without examining it even for obvious errors, but recordation may be without legal effect unless the remitter has prepared the document in a way that satisfies applicable legal requirements.

Dated: May 6, 1992.

Ralph Oman,
Register of Copyrights.

Approved by:
James H. Billington,
The Librarian of Congress.

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