



ANNOUNCEMENT

from the Copyright Office, Library of Congress, Washington, D.C. 20559-6000

NOTICE OF INTENTION TO AMEND REGULATIONS AND REQUEST FOR COMMENTS

COPYRIGHT OFFICE FEES; DEPOSIT ACCOUNTS

The following excerpt is taken from Volume 59, Number 144 of the Federal Register for Thursday July 28, 1994 (pp. 38400-38402)

LIBRARY OF CONGRESS

Copyright Office

37 CFR Part 201

[Docket No. RM 94-5A]

Copyright Office Fees; Deposit Accounts

AGENCY: Copyright Office, Library of Congress.

ACTION: Notice of intention to amend regulations and request for comments.

SUMMARY: This Notice is issued to inform the public that the Copyright Office intends to amend 37 CFR 201.6 to institute fees for Deposit Account services, as authorized by the Copyright Code. The new fees would reflect the actual cost of providing Deposit Account benefits and services. This Notice sets out our proposal for instituting fees and also requests comments on this proposal or other alternatives.

DATES: Written comments should be received by September 26, 1994.

ADDRESSES: Fifteen copies of written comments should be addressed, if sent by mail, to: Eric Schwartz, Acting General Counsel, Copyright GC/1&R, P.O. Box 70400, Southwest Station, Washington, DC 20024.

If delivered by hand, copies should be brought to: Office of the General Counsel, Copyright Office, James Madison Memorial Building, Room 407, First and Independence Avenue, S.E., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Eric Schwartz, Acting General Counsel, U.S. Copyright Office Library of Congress, Washington, D.C. 20540. Telephone: (202) 707-8380. Telefax (202) 707-8366.

SUPPLEMENTAL INFORMATION:

1. Background

The Copyright Office today issues two separate, but associated documents about fees for providing certain discretionary services to the public. This Notice addresses proposals for instituting a schedule of fees for establishing, providing, and maintaining Deposit Accounts. Published elsewhere in today's Federal Register is an associated document covering increases or institution of fees for special services authorized under the Copyright Code. These documents are issued following a comprehensive analysis of the costs the Office incurs for providing special user services, including Deposit Accounts, and a determination that current fees charged for various special services do not offset the costs of providing them. In an effort to reflect more accurately the costs associated with providing certain services to the public, and because of limited Congressional appropriations and uncertain revenue flow, we have concluded that we must take action under title 17 of the United States Code, which authorizes the Register of Copyrights to require payment "for any other special services requiring a substantial amount of time or expense..." based on "the cost of providing the service." 17 U.S.C. 708(a)(10). In this document, we invite public comment on our proposal to improve the operation of

the Deposit Account system and recover our expenses with respect to providing and maintaining Deposit Accounts.

2. The Deposit Account System

The Copyright Office maintains a system of Deposit Accounts for the convenience of those who frequently use its services. The system allows an individual or firm to establish a Deposit Account in the Copyright Office and to make advance deposits into that account. Deposit Account holders can charge copyright fees against the balance in their accounts instead of sending separate remittances with applications and other requests for services.

Deposit Accounts do not operate in the same way as commercial charge accounts, and cannot be overdrawn or used as a form of advance credit. The Copyright Office cannot perform any services before payment is made. Funds must, therefore, be available in a Deposit Account for the payment of copyright fees before an application for registration can be accepted or other services performed.

As it currently operates, the Copyright Office Deposit Account system involves substantial benefits to the depositors and substantial costs to the Copyright Office. At present, however, the obligations imposed on depositors with respect to opening and maintaining Deposit Accounts are minimal. At the same time, the Office provides its Deposit Account services free of charge and makes no effort to recoup the costs incurred as a result of insufficient funds and uncollectible replenishment checks.

3. Current Requirements for Opening and Maintaining Deposit Accounts

Under our present regulations, the requirements for opening and maintaining a Deposit Account are that the holder make an initial deposit of at least \$250.00, and that later replenishment amount to a minimum of \$250.00. The Deposit Account holder is also obliged to make at least 12 transactions a year, to provide the exact name and number of the account on all applications for registration or requests for service, and to maintain a sufficient balance to cover all charges against the account.

4. Deposit Account Services Provided by the Copyright Office

a. *Basic Services.* There is substantial workload involved in the initial establishment of a Deposit Account. A great deal of recurring clerical and accounting work is also required in maintaining and servicing accounts after they have been established: producing and mailing monthly statements of account; keeping account information up to date; entering replenishment checks; responding to inquiries from account holders; and providing additional statements of account or transaction histories upon request.

b. *Insufficient Funds and Uncollectible Checks.* In the case of a Deposit Account holder whose account does not have sufficient funds to process new requests for services, or whose checks are returned as uncollectible, the Office faces a substantial burden of staff time and expense in handling both the Deposit Account and the fee service requests to be charged against it.

When funds on hand are insufficient to process new claims or other fee service requests that are to be charged against a Deposit Account, the Office must put a hold on the account, identify and store the pertinent material, and notify the applicant by telephone, telefax, or mail that the account is depleted. When the account holder deposits additional funds, the Office staff must re-activate the account, update it to show the replenishment, then find the material, stamp the application with the "funds received" date, and forward the claim for regular processing. This is a substantial extra workload. In recent experience, the number of claims received for which there are insufficient funds available in the Deposit Account has grown to the point where a large-scale tagging and shelving system has been devised to keep track of the material and the account with which it is associated.

There is also added work involved when replenishment checks are

uncollectible. We must then remove the amount from the account balance, inform the Deposit Account holder of the problem, and solicit a replacement check which, when received, involves still more processing.

5. Summary of Copyright Office Proposals

In summary, we are proposing to amend our regulations to establish a schedule of fees for various Deposit Account benefits and services;

(1) An initial fee for opening a Deposit Account;

(2) An annual service fee for maintaining and servicing a Deposit Account;

(3) A handling fee in cases of insufficient funds; and

(4) A fee for uncollectible replenishment checks.

In addition, we propose to establish procedures for closing Deposit Accounts in cases of failure to respond to requests for replenishment or repeated attempts to charge fees against an account with insufficient funds.

6. Proposed Fee for Opening and Maintaining a Deposit Account

When we began our study and cost analysis of the Deposit Account system we sought to identify each of the work load items associated with the system and to determine what it costs the Office to perform the particular service. The costs for opening an account run, on the average, to \$50.00, to cover necessary correspondence, accounting procedures, and clerical work. We have also established that the same amount, \$50.00, would cover the total annual cost involved in servicing the account. Thus, rather than establishing separate fees for each Deposit Account service performed, we believe that it would be more economical for both account holders and the Office to establish a flat fee of \$50.00 for opening an account and another \$50.00 annual fee to be deducted from accounts each January for maintaining the account. We also propose to remove the requirement that a Deposit Account holder must make 12 transactions a year.

7. Proposed Fee in Case of Insufficient Funds

The storage and servicing of "insufficient funds" claims is not only costly, but it is also a service of direct benefit to Deposit Account holders. When an ordinary, non-Deposit Account claim comes in without funds its handling depends on whether the work is unpublished or published. If the work is unpublished, the entire case (application, deposit, and accompanying correspondence) is usually returned to

the sender. If the work is published, the case is held and the sender is given an opportunity to remit the missing funds; then, lacking a prompt reply, we forward the deposits to the Library of Congress in accordance with our regulations based on Sections 407 and 408 of the Copyright Code. Copies forwarded to the Library are not retrievable for registration purposes and, if another copyright registration is attempted, the remitter must refile the application and replace the deposit materials.

In contrast, when a Deposit Account holder submits a claim to be charged against an account with a balance insufficient to cover it, all of the material submitted is held to await replenishment of the account. Because their material is held rather than being returned or forwarded to the Library, account holders are spared the expenses of postage, handling, and replacing applications and deposits.

Because of the substantial extra workload required, we have calculated the costs connected with handling each case of insufficient Deposit Account funds at no less than \$50.00. We therefore propose to deduct a handling fee of \$50.00 from any Deposit Account whose remitter attempts to charge a copyright claim (or other fee service) when there are insufficient funds in the Deposit Account. However, we do not propose to make this change cumulative. Regardless of how many or how long claims are pending during the period when the account is depleted, we propose to make only one \$50.00 charge, to be deducted from the account at the time a replenishment check is credited.

8. Proposed Fee in Case of Uncollectible Check

We have calculated the extra cost of handling each case involving a check received for replenishing a Deposit Account that is returned as uncollectible at no less than \$35.00 per check. We therefore propose to establish a fee of \$35.00 to be charged against the account in each such case.

9. Proposed Changes in Minimum Account Requirements

We do not propose to change the current monetary requirements with respect to the minimum amount required to open a Deposit Account (\$250.00) and the minimum amount required for a remittance to replenish an account (also \$250.00). However, we now propose to establish new procedures and requirements for handling cases in which a balance drops below \$100.00, as well as those in which the balance is insufficient to cover pending claims. In both cases (Deposit Accounts with a balance of less

than the \$100.00 minimum and those with a balance of any amount that is not sufficient to cover the charges made against it) the Copyright Office will notify the account holder of the deficiency and state a reasonable deadline (we recommend 60 days) after the date of the Notice by which replenishment must be received. If replenishment is not made before the deadline, we propose to dispose of pending claims, in the same way we dispose of ordinary, non-Deposit Account claims received with payment of insufficient fees.

We also propose to set forth and implement a procedure for closing a Deposit Account when the holder has attempted to charge fees against an account with insufficient funds more than two times within a calendar year. In such cases, an initial service charge (\$250 deposit plus \$50 opening fee) would be required to re-open the account).

10. Official Point of Contact

Traditionally we have had one contact person for each Deposit Account. We send monthly statements of account, notification of insufficient funds, and announcements relating to Deposit Accounts to this person. We have become aware that in some cases this contact person is in a corporate business office or accounting department and may have little communication with the persons in the organization who file copyright applications and make other copyright service requests.

Because we now intend to impose fees in cases where Deposit Accounts have insufficient funds to cover pending charges, or where a replenishment check is returned uncollectible, we believe that Deposit Account holders need to establish mechanisms for communicating information regarding account balances and copyright service requests when these are handled by different units in their organizations. Specifically, we believe that each Deposit Account holder should provide us with the name, organizational title, and organizational address and number of an "official point of contact" for the account. All statements and other communications with respect to the account will be diverted to that individual, who will then be held responsible for monitoring the account and maintaining sufficient funds in it. The Deposit Account holder would also need to inform us when the person who is the official point of "contact" has changed.

11. Conclusion

It may be possible to implement some of these proposed changes without

amending our existing regulations. We invite comments on the proposal in general and any other alternatives for improving Deposit Account operations and recovering costs.

Dated: July 19, 1994.

Barbara Ringer,
Acting Register of Copyrights.

Approved:

James H. Billington,
Librarian of Congress.
[FR Doc. 94-18307 Filed 7-27-94; 8:45 am]

BILLING CODE 1410-07-P

