INTERIM REGULATION

PART 202--REGISTRATION OF CLAIMS TO COPYRIGHT

COPYRIGHT REGISTRATIONS

The following excerpt is taken from Volume 43, No. 3 of the Federal Register for Thursday, January 5, 1978 (pp. 965-7).

Please note the interim regulations are effective January 1, 1978, however, comments can be received on or before March 31, 1978.

[1410-03]

[Docket RM 77-10]

PART 202--REGISTRATION OF CLAIMS TO COPYRIGHT

Copyright Registrations

AGENCY: Library of Congress, Copyright Office.

ACTION: Interim regulation.

SUMMARY: This notice is issued to advise the public that the Copyright Office of the Library of Congress is adopting an interim regulation to implement sections 408 and 409 of the Act for General Revision of the Copyright Law. These sections pertain to copyright registration. The effect of the interim regulations is to establish requirements governing the classification of works for copyright registration and the form and content of applications for copyright registration. These regulations are issued on an interim basis in order to allow persons to apply for and secure copyright registration immediately on and after the effective date of the statute, while permitting full public comment before the issuance of final regulations.

DATES: The interim regulations are effective on January 1, 1978. Comments should be received on or before March 31, 1978.


Copies of all written comments will be available for public inspection and copying between the hours of 8 a.m. and 4 p.m., Monday through Friday, in the Public Information Office of the Copyright Office, Room 101, Crystal Mall, Building No. 2, 1921 Jefferson Davis Highway, Arlington, Va. 22202.

FOR FURTHER INFORMATION, CONTACT:


SUPPLEMENTARY INFORMATION:

Paragraph (a) of section 408 of the first section of Pub. L. 94-553 (90 Stat. 2541) provides that “at any time during the subsistence of copyright in any published or unpublished work, the owner of copyright or of any exclusive right in the work may obtain registration of the copyright claim by delivering to the Copyright Office an application for registration, together with the necessary fee and deposit. Paragraph (c) of that section authorizes the Register of Copyrights to “specify by regulation” the administrative classes into which works are to be placed for purposes of registration. Section 409 provides that the application for registration “shall be made on a form prescribed by the Register of Copyrights” and include certain specified items of information, as well as “any other information” regarded by the Register of Copyrights as bearing upon the preparation or identification of the work or the existence, ownership, or duration of the copyright.”

We are implementing these provisions by the revision of §202.3 of the regulations of the Copyright Office. In order to allow persons to apply for and secure copyright registration immediately upon and after the effective date of the new Copyright Act, this regulation is effective on January 1, 1978. However, we do wish to give the public full opportunity to comment on the regulations, and to give both the public and the Copyright Office the benefit of experience with the new application forms before issuing final regulations. Accordingly, the regulation is issued on an interim basis and comments will be received until the date set forth above. Final regulations will be issued after the close of the comment period.

The interim regulation is essentially self-explanatory; however, the following points should be noted:

1. In a Notice of Inquiry published on September 16, 1977 (42 FR 46944) we raised certain issues related to registration. Prompted by the implications of that Notice, several comments, including a persuasive practical and legal analysis prepared by the Authors League of America, Inc., strongly urged that the copyright “claimant” to be identified in an application and registration under section 409(c) of the Act not be equated with the owner of one or more, but less than all, of the rights under a copyright. We agree with the view expressed in these comments; we do not believe that the concept of “divisibility of copyright” was intended to allow the owner of an individual right or rights to claim, or appear to claim, on our records, ownership of the entire copyright. As pointed out in the comments, such a result would lead to a misleading and inaccurate public record, and subvert the purpose of the registration system. Accordingly, interim §202.3(a)(2) makes clear that the copyright “claimant” for purposes of copyright registration is the author of the work for which registration is sought, or a person, or organization that has obtained ownership of all rights under the copyright initially belonging to the author.

2. In the same Notice of Inquiry, we stated that the general rule envisioned by the new Act, as under the current law, was that only one registration should be made for the same version of a particular work. Although a few comments questioned this principle, we believe that the history, language, and structure of the statute is clear on the point, and we adhere to the position expressed. Indeed, the allowance of multiple registrations for the same work
(3) The author of a work:

(iii) A person or organization that has obtained ownership of all rights under the copyright initially belonging to the author.

(b) Administrative Classification and Application Classes in the Visual Arts. This class includes all published, and unpublished, non-dramatic literary works, examples: Fiction, nonfiction, poetry, texts, reference works, directories, catalogs; advertising copy; periodicals and serials; and compilations of information.

(ii) Class PA: Works of the Performing Arts. This class includes all published, and unpublished, dramatic and musical works, and those works that could be classified in section 101.02 and in section 101.03 of chapter 1. This class includes all published, and unpublished, pictorial, graphic, and sculptural works, and other audiovisual works.

(iii) Class AV: Works of the Visual Arts. This class includes all published, and unpublished, pictorial, graphic, and sculptural works. Examples: Two dimensional and three dimensional works of the fine, graphic, and applied arts; photography, prints, and art reproductions, maps, globes, and charts; technical drawings, diagrams, and models; and pictorial or graphic labels and advertisements.

(iv) Class SR: Sound Recordings. This class includes all published, and unpublished, sound recordings fixed on and after January 1, 1978. Each form corresponds to a class set forth in paragraph (b) of this section and is so designated ("Form TX"); "Form PA"; "Form VA"; and "Form SR"). Copies of the forms are available upon request to the Copyright Information Office, United States Copyright Office, Library of Congress, Washington, D.C. 20559. Applications should be submitted in the class most appropriate to the nature of the authorship in which copyright is claimed. In the case of contributions to collective works, applications should be submitted in the class representing the copyrightable authorship in the contribution. In the case of derivative works, applications should be submitted in the class representing the copyrightable authorship in the derivative work. In cases where a work contains elements of multiple authorship in which copyright is claimed which fall into two or more classes, the application should be submitted in the class most appropriate to the type of authorship that predominates in the work as a whole. However, in any case, wherever registration is sought consisting of or including a sound recording in which copyright is claimed, the application shall be submitted on Form SR.

(3) Registration as a Single Work. (1) For the purposes of registration, a single publication and the payment of a single registration fee, the following shall be considered a single work:

(A) In the case of published works: All copyrightable elements that are otherwise recognizable as self-contained works, that are included in a single unit of publication, and in which the copyright claimant is the same and

(B) In the case of unpublished works: all copyrightable elements that are otherwise recognizable as self-contained works, and are combined in a single unpublished "collection". For these purposes, a combination of such elements shall be considered a "collection":

(1) The elements are assembled in an orderly form;

(2) the combined elements bear a single title identifying the collection as a whole;

(3) the copyright claimant in all the elements, and in the collection as a whole, is the same,

(4) all of the elements are by the same author, or, if they are by different authors, at least one author has contributed copyrightable authorship to each element. An application of an unpublished "collection" extends to each copyrightable element in the collection and to the authorship, if any, involved in selecting and assembling the collection.

A "sound recording" does not include the sounds accompanying a motion picture or other audiovisual work (17 U.S.C. 101). For this purpose, "accompanying" does not require physical integration in the same copy. Accordingly, registration may be made for a motion picture or other visual work in Class PA and that registration will cover the sounds embodied in the "sound track" of the motion picture or other visual work, like included in the kit. Separate application in Class SR is not appropriate for these elements.
(1) In the case of applications for registration mentioned in paragraphs (2) and (b) (5) of this section, the “year in which creation of this work was completed”, as called for by the application, means the latest year in which the creation of any copyrightable element was completed.

(4) Group Registration of Related Works. [Reserved]

(5) Group Registration of Contributions to Periodicals. (1) As provided by section 408(c) (2) of title 17 of the United States Code, as amended by Pub. L. 94-353, a single registration, on the basis of a single application, deposit, and registration fee, may be made for a group of works if all of the following conditions are met:

(A) All of the works are by the same author;

(B) The author of each work is an individual, and not an employer or other person for whom the work was made for hire.

(C) Each of the works first published as a contribution to a periodical (including newspapers) within a twelve-month period;

(D) Each of the works as first published bore a separate copyright notice, and the name of the owner of copyright in each work (or an abbreviation by which the name can be recognized, or a generally known alternative designation of the owner) was the same in each notice;

(E) The deposit accompanying the application consists of one copy of the entire issue of the periodical, or of the entire section in the case of a newspaper, in which each contribution was first published.

(2) An application for group registration under section 408(c) (2) of title 17 and this § 202.3(b) (5) shall consist of:

(A) A basic application for registration on Form TX, Form PA, or Form VA, which shall contain the information required by the form and its accompanying instructions; (B) an adjunct form prescribed by the Copyright Office and designated “Adjoint Application for Copyright Registration for a Group of Contributions to Periodicals (Form GR/CP)”; which shall contain the information required by the form and its accompanying instructions; and (C) a fee of $10 and the deposit required by paragraph (b) (5) (1) (E) of this section.

(6) One Registration Per Work. As a general rule only one copyright registration can be made for the same version of a particular work. However:

(A) A basic application for registration as unpublished, another registration may be made for the first published edition of the work, even if it does not represent a new version;

(B) Where someone other than the author is identified as copyright claimant in a registration, another registration for the same version may be made by the author in his or her own name as copyright claimant.

(C) Where an applicant for registration alleges that an earlier registration for the same version is unauthorized and legally invalid, a registration may be made by that applicant; and

(D) Supplementary registrations may be made, under the conditions of § 201.5 of these regulations, to correct or amplify the information in a registration made under this section.

(c) Application for Registration. (1) An application for copyright registration may be submitted by any author or other copyright claimant of a work, or the owner of any exclusive right in a work, or the duly authorized agent of any such author, other claimant, or owner.

(2) An application for copyright registration shall be submitted on the appropriate form prescribed by the Register of Copyrights under paragraph (b) of this section, and shall be accompanied by a fee of $10 and the deposit required under 17 U.S.C. 408 and § 202.20 of these regulations. The application shall contain the information required by the form and its accompanying instructions, and shall include a certification. The certification shall consist of: (i) A designation of whether the applicant is the author of, or other copyright claimant or owner of exclusive rights in the work, or the duly authorized agent of such author, other claimant, or owner (whose identity shall also be given); (ii) the handwritten signature of such author, other claimant, owner, or agent, accompanied by the typed or printed name of that person; (iii) a declaration that the statements made in the application are correct to the best of that person’s knowledge; and (iv) the date of certification. An application for registration of a published work will not be accepted if the date of certification is earlier than the date of publication given in the application.


(17 U.S.C. 207 and under the following sections of title 17 of the U.S. Code as amended by Pub. L. 94-353: Secs. 406; 406; §10; 702.)


BARBARA RINGER,
Register of Copyrights.

Approved:

DANIEL J. BOORSTEIN,
Librarian of Congress.

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