



# ANNOUNCEMENT

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

## INTERIM REGULATIONS

### PART 202--REGISTRATION OF CLAIMS TO COPYRIGHT

#### DEPOSIT REQUIREMENTS

The following excerpt is taken from Volume 43, No. 55 of the Federal Register for Tuesday, March 21, 1978 (pp. 11701-3).

Please note the interim regulations are effective March 21, 1978, however, comments can be received on or before April 28, 1978.

[1410-03]

#### Title 37—Patents, Trademarks, and Copyrights

#### CHAPTER II—COPYRIGHT OFFICE, LIBRARY OF CONGRESS

[Docket RM 78-2]

#### PART 202—REGISTRATION OF CLAIMS TO COPYRIGHT

##### Deposit Requirements

AGENCY: Library of Congress, Copyright Office.

ACTION: Interim regulations.

**SUMMARY:** This notice is issued to inform the public that the Copyright Office of the Library of Congress is adopting interim amendments to §§ 202.20 and 202.21 of our regulations. The effect of the amendments is to liberalize requirements governing the nature of the deposit required in connection with applications for copyright registration of three-dimensional works. The amendments are issued on an interim basis in order to permit their immediate application while allowing full public comment.

**DATES:** The interim regulations are effective on March 21, 1978.

Comments should be received on or before April 28, 1978.

**ADDRESSES:** Five copies of all written comments should be provided, if by hand, to: Office of the General Counsel, U.S. Copyright Office, Library of Congress, Crystal, Mall Building No. 2, Room 519, Arlington, Va., or, if by mail to: Office of the General Counsel, U.S. Copyright Office, Library of Congress, Caller No. 2999, Arlington, Va. 22202.

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.

FOR FURTHER INFORMATION, CONTACT:

Jon Baumgarten, General Counsel, U.S. Copyright Office, Library of Congress, Washington, D.C. 20559, 703-557-8731.

**SUPPLEMENTARY INFORMATION:** Under 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 copies of the work in the Copyright Office for the use or disposition of the Library of Congress. 17 U.S.C. 408 also requires deposit of material in connection with applications for copyright registration of unpublished and published works. After establishing general rules governing the nature of the required deposit, section 408 authorizes the Register of Copyrights to prescribe regulations governing "the nature of the copies or phonorecords to be deposited" and to "require or permit . . . the deposit of identifying material instead of copies or phonorecords . . ."

On January 4, 1978, we published in the FEDERAL REGISTER (43 FR 763, effective January 1, 1978) final regulations implementing the deposit requirements of sections 407 and 408. After reconsideration in the light of our experience under those regulations we have decided to make several changes in their application to three-dimensional works.

1. *Definition of "complete" copy or phonorecord.* For purposes of copyright registration under 17 U.S.C. 408, the regulations as originally issued defined a "complete" copy or phonorecord of a published work as one that included all elements comprising the unit of publication of the work. This

definition followed the definition of "complete" copy we adopted (37 CFR 202.19(b)(2)) for purposes of mandatory deposit for the Library of Congress under 17 U.S.C. 407, thus allowing a single deposit to meet the requirements of both sections. In several cases applications have been submitted for copyright registration of two-dimensional works (for example, instructions or illustrations) packaged together with uncopyrightable three-dimensional objects (for example, yarn and knitting needles). Although the entire unit was exempt from mandatory deposit for the Library, application of the same "complete" copy definition, taken together with other provisions requiring the deposit of identifying material in lieu of actual three-dimensional objects, appeared to require an applicant to prepare and submit photographs or the like of uncopyrightable material as a condition to registration of some two-dimensional works. In order to remove this possible burden, we have: (i) Amended § 202.20(b)(2) to provide that "in the case of a published work exempt from . . . deposit . . . under section 407 of title 17 . . . a 'complete' copy of phonorecord is a copy or phonorecord representing the entire copyrightable content of the work for which registration is sought;" and (ii) revised § 202.20(c)(2)(ix) to remove the necessity of depositing identifying material of two-dimensional works which are "complete" under the new definition.

2. *Special relief.* The regulations originally issued generally require the deposit of identifying material, such as drawings or photographs, in lieu of

<sup>1</sup>Under § 202.19(c)(2)(i)(A) the deposit of an actual copy of three-dimensional cartographic representations of area, such as globes and relief models, is required. An exception has also been added to § 202.20(c)(2)(ix) to make clear that identifying material is not required in such cases.

actual copies of works reproduced in or on three-dimensional objects. This general requirement was designed to reduce the substantial administrative and storage expenses faced by the Copyright Office. However, we recognize that there are circumstances where our insistence on the deposit of identifying material may impose an undue burden on copyright owners. Accordingly, we have added a new § 202.20(d)(1)(iii) to permit the deposit of actual copies, as "special relief", in appropriate cases. We are also amending § 202.20(c)(2)(ix) to make clear that, unless special relief is asked for and granted, the general requirement for identifying material does apply to three-dimensional works contained in boxes or the like.

3. *Identifying material.* In an effort to minimize further the possible burden and cost to copyright owners in submitting identifying material in lieu of copies, we have also reduced the minimum size requirements of § 202.21(c), other than as applied to photographic transparencies, from 5 x 7 to 3 x 3 inches. This will permit the submission of inexpensive photographs of works to satisfy the "identifying material" requirement. At the same time, however, applicants must understand that the ability of the Copyright Office to preserve an archival record of the work registered may be affected by the relative impermanence of some less expensive photographic prints. We have also amended this section to: (i) Eliminate the specific size requirements for less-than-lifesize images represented in photographs, and (ii) make clear that the entire section, as amended, applies to the deposit of identifying material in lieu of copies of both published and unpublished works. This section, and § 202.21(e), have also been amended to make it clear that where drawings of a copyright notice are required to be submitted as a part of identifying material, the drawing need not be of "uniform size" with the material showing the work itself. For example, a 35 mm. transparency or a 3 x 3 inch photograph could be accompanied by a drawing of the copyright notice on 8 x 10 inch paper.

#### INTERIM REGULATIONS

Part 202 of 37 CFR Chapter II (as amended on January 1, 1978) is amended, on an interim basis: 1. By amending § 202.20 to read as follows:

§ 202.20 Deposit of copies and phonorecords for copyright registration.

(b) \* \* \*

(2) A "complete" copy or phonorecord of an unpublished work is a copy or phonorecord representing the entire copyrightable content of the work for which registration is sought. A "complete" copy or phonorecord of a published work includes all elements comprising the applicable unit of publication of the work, including elements that, if considered separately,

would not be copyrightable subject matter; however, in the case of a published work exempt from the deposit of copies or phonorecords under section 407 of title 17 and § 202.19(c) of these regulations, a "complete" copy or phonorecord is a copy or phonorecord representing the entire copyrightable content of the work for which registration is sought. In the case of a contribution to a collective work, a "complete" copy or phonorecord is the entire collective work including the contribution or, in the case of a newspaper, the entire section including the contribution. In the case of published sound recordings, a "complete" phonorecord has the meaning set forth in § 202.19(b)(2) of these regulations. In the case of a musical composition published only by the rental, lease, or lending of copies consisting of a full score and parts, a full score is a "complete" copy; in the case of a musical composition published only by the rental, lease, or lending of copies consisting of a conductor's score and parts, a conductor's score is a "complete" copy.

(c) \* \* \*

(2) \* \* \*

(ix) *Works reproduced in or on three-dimensional objects.* (A) In the following cases the deposit must consist of identifying material complying with § 201.21 of these regulations instead of a copy or copies: (1) Any three-dimensional sculptural work, including any illustration or formulation of artistic expression or information in three-dimensional form. Examples of such works include statues, carvings, ceramics, moldings, constructions, models, and maquettes; and (2) Any two-dimensional or three-dimensional work that, if unpublished, has been fixed, or, if published, has been published only in or on jewelry, dolls, toys, games, or any three-dimensional useful article.

(B) In the following cases, the requirements of paragraph (A) of this § 202.20(c)(2)(ix) for the deposit of identifying material shall not apply: (1) Works that are reproduced by intaglio or relief printing methods on two-dimensional materials such as paper or fabrics; (2) Three-dimensional cartographic representations of area, such as globes and relief models; (3) Works that have been fixed or published in or on a useful article that comprises one of the elements of the unit of publication of an educational or instructional kit which also includes a literary or audiovisual work, a sound recording, or any combination of such works; and (4) Published works exempt from the deposit of copies under section 407 of title 17 and § 202.19(c) of these regulations, where the "complete" copy of the work within the meaning of paragraph (b)(2) of this section consists of a reproduction of the work on a two-dimensional materials such as paper or fabrics.

(d) *Special relief.* (1) In any case the

Register of Copyrights may, after consultation with other appropriate officials of the Library of Congress and upon such conditions as the Register may determine after such consultation: (i) Permit the deposit of one copy or phonorecord or alternative identifying material, in lieu of the one or two copies or phonorecords otherwise required by paragraph (c)(1) of this section; (ii) permit the deposit of incomplete copies or phonorecords, or copies or phonorecords other than those normally comprising the best edition; or (iii) permit the deposit of an actual copy or copies, in lieu of the identifying material otherwise required by this section.

2. By amending § 202.21 to read as follows:

§ 202.21 Deposit of identifying material instead of copies.

(a) *General.* Subject to the specific provisions of paragraphs (f) and (g) of this section, in any case where the deposit of identifying material is permitted or required under § 202.19 or § 202.20 of these regulations for published or unpublished works, the material shall consist of photographic prints, transparencies, photostats, drawings, or similar two-dimensional reproductions or renderings of the work, in a form visually perceivable without the aid of a machine or device. In the case of pictorial or graphic works, such material shall reproduce the actual colors employed in the work. In all other cases, such material may be in black and white or may consist of a reproduction of the actual colors.

(c) *Size.* All pieces of identifying material must be of uniform size (except drawings or the like of copyright notices under paragraph (e) of this section). Photographic transparencies must be 35 mm. in size, and must be fixed in cardboard, plastic, or similar mounts to facilitate identification, handling and storage. All other types of identifying material must be not less than 3 x 3 inches and not more than 9 x 12 inches, but preferably 8 x 10 inches. Except in the case of transparencies, the image of the work must be either lifesize or larger, or if less than lifesize must be large enough to show clearly the entire copyrightable content of the work.

(e) *Copyright notice.* In the case of works published with notice of copyright, the notice and its position on the work must be clearly shown on at least one piece of identifying material. Where necessary because of the size or position of the notice, a separate drawing or the like, no larger than 9 x 12 inches, showing the exact appearance and content of the notice, its dimensions, and its specific position on the work shall be submitted.

(17 U.S.C. 408, 702)

Dated: March 14, 1978.

BARBARA RINGER,  
Register of Copyrights.

Approved:

DANIEL J. BOORSTIN,  
Librarian of Congress.

(FR Doc. 78-7359 Filed 3-20-78; 8:45 am)