



# ANNOUNCEMENT

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

## FINAL REGULATIONS

### PART 201 - GENERAL PROVISIONS

#### RECORDATION AND CERTIFICATION OF COIN - OPERATED PHONORECORD PLAYERS

The following excerpt is taken from Volume 43, No. 211 of the Federal Register for Tuesday, October 31, 1978 (pp. 50678-50681).

[1410-03-M]

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

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

[Docket RM 77-4A]

**PART 201—GENERAL PROVISIONS**

**Recordation and Certification of  
Coin-Operated Phonorecord Play-  
ers**

**AGENCY:** Library of Congress, Copy-  
right Office.

**ACTION:** Final regulations.

**SUMMARY:** This notice is issued to inform the public that the Copyright Office of the Library of Congress is adopting final amendments to § 201.16 of our regulations. The effects of the amendments are: To establish requirements governing the correction of errors in applications for recordation of coin-operated phonorecord players and in related certificates; to clarify our examination of applications and our treatment of certain time limits imposed by the Copyright Act in connection with the recordation of coin-operated phonorecord players; to modify the requirement for the "full address" of an operator of coin-operated phonorecord players to include post office boxes in certain cases; and to make other technical amendments.

**DATE:** The final regulations are effective on October 31, 1978.

**FOR FURTHER INFORMATION  
CONTACT:**

Susan Aramayo, Chief, Licensing Di-  
vision, U.S. Copyright Office, Li-

brary of Congress, Washington, D.C.  
20557, 703-557-1397.

**SUPPLEMENTARY INFORMATION:**  
17 U.S.C. 116 establishes conditions under which operators of coin-operated phonorecord players—commonly referred to as "jukeboxes"—may obtain a compulsory license for the performance of nondramatic musical works.

A compulsory license permits the use of a copyrighted work without the consent of the copyright owner, if certain conditions are met and royalties paid. Section 116 establishes general rules governing the conditions of the compulsory license for coin-operated phonorecord players, and requires the Register of Copyrights to prescribe regulations governing compulsory license applications and the certificates to be affixed to licensed phonorecord players.

Section 116 also sets forth certain time limitations in connection with applications for recordation of jukeboxes: For jukeboxes already in use on January 1, 1978, the application was to be submitted between January 1, 1978, and January 31, 1978; for jukeboxes put into use after January 1, 1978, the application must be submitted before or within 1 month after the date performances are first made available on that player; and for jukeboxes previously recorded in the Copyright Office the application must be submitted between January 1 and January 31 of each succeeding year that the machine is in use. In addition, as an exception to the requirement that applications are to be accompanied by a royalty fee of \$8 per player, the statute provides that, if performances "are made available on a particular phonorecord player for the first time after July 1 of any year, the royalty fee to be deposited for the remainder of that year" is \$4.

On March 30, 1977, we published in the FEDERAL REGISTER (42 FR 16838) an advance notice of proposed rule-making in this matter. After considering the comments received in response to the advance notice, on October 11, 1977, we published a proposed regulation (42 FR 54840) and, on October 25, 1977, we held a public hearing on the proposal. After considering the comments made at the hearing and in supplemental filings, on December 20, 1977, we published (42 FR 63779) final regulations implementing section 116. In the light of our experience since January of this year, on August 23, 1978, we adopted interim amendments to the regulations (43 FR 37451). The amendments are fully discussed in the preamble to our notice of August 23, 1978; in summary:

1. We amended § 201.16(b)(1)(ii) to provide that, after consultation with postal officials, we will accept a post office box or similar designation as a jukebox operator's "address" in special cases where no better address for the operator's place of business is possible.

2. We amended § 201.16(c) to state our general operating principle in examining applications for recordation of jukeboxes: We will require the correction of errors appearing on the face of the application, but will generally not go beyond the information in the document itself. This amendment also makes clear that the issuance of a jukebox certificate by the Copyright Office shall not be considered "a determination that the application was properly prepared or that all of the requirements to qualify for a compulsory license have been satisfied."

3. We added a new paragraph (f) to § 201.16 to explain our handling of the time limitations established in the statute for the filing of applications for recordation of jukeboxes and the

in two or more applications filed during the same year by or on behalf of the same operator. In these cases the operator named in the application shall be entitled to a refund of any duplicate fee paid;

(ii) Where any of the following information was incorrect at the time the application was signed: (A) The operator's name or address; (B) The serial number or name of the manufacturer of a player; or (C) the identifying information required by paragraph (b)(2) of this section. In any such case the Copyright Office will issue a new certificate containing the correct information. Each corrected certificate will be identified by a double asterisk following the name of the manufacturer.

(iii) Where an application contains information that was correct at the time the application was signed but, as the result of Copyright Office error, the certificate contains incorrect information. In this case the Copyright Office will issue a new certificate containing the correct information; and

(iv) Where an application was accompanied by payment of an \$8 fee for each phonorecord player listed but, with respect to one or more such players, performances were actually made available for the first time after July 1 of the year in which the application was filed. In this case the operator named in the application shall be entitled to a refund of any excess fee paid and the Copyright Office will issue a new certificate for each player subject to the \$4 fee.

(2) Corrected certificates or refunds will not be issued after the issuance of original certificates in the following cases:

(i) Where the application was correct on the date on which the application was signed, but changes (for example, a change in the operator's name or address, or the sale or destruction of a player) took place later;

(ii) Where the application identified one or more players that the operator named in the application never owned or operated, or did not own or operate at the time the application was signed, or where, before the application was signed, an identified player had been destroyed or otherwise rendered permanently incapable of being repaired; or

(iii) In any other case not specifically mentioned in paragraph (g)(1) of this section.

(3) Requests for corrections and refunds in the cases mentioned in para-

graph (g)(1) of this section shall be made to the Licensing Division of the Copyright Office, and shall meet the following conditions:

(i) The request must be in writing, must be clearly identifiable as a request for a correction or refund, and, except in the cases described in paragraph (g)(1)(iii) of this section, must be received in the Copyright Office with the appropriate fee, certificate or certificates, and affidavit (where required) before the expiration of 30 days from the date on which the original certificate was issued by the Copyright Office. A request made by telephone or by telegraphic or similar unsigned communication, will be considered to meet this requirement, if it clearly identifies the basis of the request, if it is received in the Copyright Office within the required 30-day period, and if a written request meeting all the conditions of this paragraph (g)(3) of this section is also received in the Copyright Office within 14 days after the end of such 30-day period.

(ii) The original application pertaining to each correction must be sufficiently identified in the request so that it can be readily located in the records of the Copyright Office.

(iii) The original certificate pertaining to each correction or refund must be returned to the Copyright Office within the time period prescribed by paragraph (g)(3)(i) of this section. No request will be processed until the applicable certificate is returned; and

(iv) The request must contain a clear statement of the facts on which it is based, in accordance with the following requirements:

(A) In the case of duplicate listings (paragraph (g)(1)(i)) a precise and accurate identification of the particular player or players must be given.

(B) In the case of incorrect information given in the application (paragraph (g)(1)(ii) of this section) the request must clearly identify the erroneous information and provide the correct information.

(C) In the case of a certificate that contains erroneous information resulting from Copyright Office error (paragraph (g)(1)(iii) of this section) the error must be clearly indicated.

(D) In the case of overpayment within the meaning of paragraph (g)(1)(iv) of this section, the request must be accompanied by an affidavit under the official seal of any officer authorized to administer oaths within the United States, or a statement in

accordance with section 1746 of title 28 of the United States Code, made and signed by the operator named in the application of the duly authorized agent of that operator in accordance with paragraph (b)(1)(vi) of this section. The affidavit or statement shall: aver that performances of nondramatic musical works were actually made available on the particular phonorecord player(s) for the first time after July 1 of the year covered by the application; Give the exact date, including month, day, and year on which such performances were first made available and the location where that event took place; specifically identify the particular phonorecord player(s) involved by the same identifying information as given in the application; and include a brief explanation of the reason for the original submission of a \$8 fee for those players.

(v) In those cases where corrections or refunds are to be made under paragraph (g)(1) of this section, the request must be accompanied by a certified check, cashier's check, or money order in the following amount: (A) In the case of a duplicate listing (paragraph (g)(1)(i) of this section): \$4 for each application involved; (B) in the case of an error in the operator's name or address (paragraph (g)(1)(ii)(A)) or overpayment within the meaning of paragraph (g)(1)(iv) of this section: \$4 for each separate original application pertaining to the certificates to be corrected; and (C) in the case of an error in the serial number or name of the manufacturer of the player, or other identifying information (paragraph (g)(1)(ii) (B) and (C) of this section): \$4 for each separate certificate to be corrected. No request will be processed until the appropriate fee is received; and

(vi) The request must be signed by the operator named in the application, or the duly authorized agent of the operator, in accordance with paragraph (b)(1)(vi) of this section.

(4) Each request for correction or refund will be made part of the original application in the records of the Copyright Office. Nothing contained in this paragraph (g) shall be considered to relieve the operator from its full obligations under title 17 of the United States Code, including penalties for affixing a certificate to a player other than the one it covers.

(17 U.S.C. 116, 702, 708.)

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