



ANNOUNCEMENT

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

NOTICE OF INQUIRY

REGISTRATION OF CLAIMS TO COPYRIGHT; INQUIRY--BLANK FORM

The following excerpt is taken from Volume 44, No. 235 of the Federal Register for Wednesday, December 5, 1979 (pp. 69977-69978).

LIBRARY OF CONGRESS

37 CFR Part 202

Copyright Office

[Docket Rm 79-8]

Registration of Claims to Copyright;
Inquiry—Blank Form

AGENCY: Library of Congress, Copyright
Office.

ACTION: Notice of inquiry.

SUMMARY: This notice of inquiry is issued to advise the public that the Copyright Office of the Library of Congress is reviewing its practices with respect to certain works which are often referred to as "blank forms." The existing regulations of the Copyright Office, 37 CFR 202.1(c), preclude registration for "blank forms" which are designed for recording information and which do not in themselves convey information." This notice is intended to elicit public comment, views, and information which will assist the Copyright Office in evaluating its present practices and possible changes in that portion of its regulations. *

ML-229

DATES: Initial comments should be received on or before January 15, 1980. Reply comments should be received on or before January 31 1980.

ADDRESS: Interested persons should submit five copies of their written comments to Office of the General Counsel, Copyright Office, Library of Congress, Caller No. 2999, Arlington, Virginia 22202.

FOR FURTHER INFORMATION CONTACT: Dorothy Schrader, General Counsel, Copyright Office, Library of Congress, Washington, D.C. 20559, Telephone (703) 557-8731.

SUPPLEMENTARY INFORMATION: The existing Copyright Office regulations include "blank forms" among those works identified as not being subject to copyright.

Blank forms, such as time cards, graph paper, account books, diaries, bank checks, scorecards, address books, report forms, order forms and the like, which are designed for recording information and do not in themselves convey information. (37 CFR 202.1(c))

It has been suggested that, while the criterion requiring the conveying of information as a condition of copyrightability is generally sound, the

generic term "blank forms" and some of the more specific categories which follow it may not provide adequate guidance concerning whether a specific work is copyrightable.

The Copyright Office has noted recent instances in which the courts have held copyrightable works that some might consider to fall within the broad language of the existing regulation. While in most cases there has been no direct conflict with the regulation since the works were, in fact, registered by the Copyright Office, we have, where necessary, modified our practice. The most significant modification to date has been with respect to machine-scorable answer sheets for standardized tests. The practice now followed, in accord with the decision in *Harcourt, Brace & World, Inc. v. Graphic Controls Corp.*, 329 F. Supp. 517 (S.D.N.Y. 1971), is to register claims to copyright in such works whether or not they are submitted in conjunction with their tests and without requiring a certain quantum of textual material. (However, in many cases, claims in "answer sheet" materials should be registered only on the basis of statements of new matter, since the grids and other elements may have been published previously.)

*Error; line should read: "regulations."

Additional cases in which copyright protection has been approved have led the Office to consider the revision of 37 CFR 202.1(c). Among others, they include *Professional Systems & Supplies, Inc. v. Databank Supplies & Equipment Co., Inc.*, Copyright L. Rep. (CCH) ¶ 25,081 (W.D. Okla. 1979) (legal forms); *Edwin K. Williams & Co. v. Edwins K. Williams & Co.—East*, 542 F. 2d 1043 (9th Cir. 1976) (account books); *Frederick Chusid & Co. v. Marshall Leeman & Co.*, 326 F. Supp. 1041 (S.D.N.Y. 1971) (personal data forms); *Norton Printing Co. v. Augustana Hospital*, 155 U.S.P.Q. 133 (N.D. Ill. 1967) (medical laboratory test forms); *Manpower, Inc. v. Temporary Help of Harrisburg, Inc.*, 246 F. Supp. 786 (E.D. Pa. 1965) (vacation schedule forms); and *Cash Dividend Check Corp. v. Davis*, 247 F. 2d 458 (9th Cir. 1957) (bank checks).

The Copyright Office has for many years observed a "rule of doubt" under

which claims are registered when there is reasonable doubt about whether a court would find a specific work a proper subject of copyright. To assist the Office in evaluating its treatment of blank forms, comments are specifically requested on the following questions:

(1) Should 37 CFR 202.1(c) be amended—

(a) By deleting the words "blank forms" and the subsequent list of examples so that it simply states the criterion of the conveyance of information; or

(b) By revising the list of examples so that it more accurately reflects the state of the case law; or

(c) In some other manner?

(2) What are the arguments for and against present Office practices in registering works where the quantum of traditional authorship is small particularly in view of the provision in 17 U.S.C. 410(c) that a certificate or registration generally constitutes prima

facie evidence of the validity of the copyright?

Copies of all comments received 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, Room No. 101, Crystal Mall Building No. 2, 1921 Jefferson Davis Highway, Arlington, Virginia 22202.

If we decide to propose any change in the relevant regulations, we will ** publish a proposed text in the Federal Register and invite comments at a later time.

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

Dated: November 29, 1979.

Barbara Ringet,
Register of Copyrights.

Approved:
Daniel J. Boorstin,
Librarian of Congress.

[Fr Doc. 79-37346 Filed 12-4-79; 8:45 am]

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*Error; line should read: "17 U.S.C. 410(c) that a certificate of"

**Error; line should read: "the relevant regulations, we will"