



ANNOUNCEMENT

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

INTERIM REGULATIONS

COPYRIGHT ROYALTY TRIBUNAL; TRANSFER AND ADOPTION OF REGULATIONS

The following excerpt is taken from Volume 58, Number 244 of the Federal Register for Wednesday, December 22, 1993 (pp. 67690-67691)

LIBRARY OF CONGRESS

Copyright Office

[Docket No. RM 93-12]

Copyright Royalty Tribunal; Transfer and Adoption of Regulations

AGENCY: Copyright Office; Library of Congress.

ACTION: Interim Regulations.

SUMMARY: The Copyright Office of the Library of Congress, pursuant to the Copyright Royalty Tribunal Reform Act of 1993, is adopting on an interim basis the rules and regulations of the now defunct Tribunal found in 37 CFR chapter III. The Office is making only technical changes to those rules and regulations and will conduct a thorough review and revision as part of a future rulemaking.

EFFECTIVE DATE: December 17, 1993.

FOR FURTHER INFORMATION CONTACT: William Roberts, Senior Attorney, U.S. Copyright Office, Library of Congress, Washington, DC 20559, (202) 707-8380.

SUPPLEMENTARY INFORMATION: On December 17, 1993, the President signed into law the Copyright Royalty Tribunal Reform Act of 1993 ("Reform Act"). Pub. L. No. 103-198. Effective immediately upon enactment, the Reform Act amends the Copyright Act, 17 U.S.C., by eliminating the Copyright Royalty Tribunal and transferring its responsibilities and duties to ad hoc copyright arbitration royalty panels, to be administered by the Library of Congress and the Copyright Office. The copyright arbitration royalty panels will be convened by the Librarian of Congress for limited times

for the purpose of adjusting rates and distributing royalties collected pursuant to the compulsory licenses of the Copyright Act. See 17 U.S.C. 111, 115, 116, 118, 119 and chapter 10.

Although the Reform Act eliminates the Copyright Royalty Tribunal, the Librarian of Congress is expressly directed to adopt immediately the rules and regulations of the Tribunal in their entirety. Those regulations are to remain in effect unless and until the Librarian adopts supplemental or superseding regulations in accordance with the provisions of the Administrative Procedure Act (APA). The Reform Act thereby preserves the Tribunal's rules and regulations from extinction, while granting the Librarian express authority to make future changes.

Complete and immediate adoption of chapter III of title 37 of the Code of Federal Regulations presents certain problems. The change from a single autonomous Tribunal to a system of ad hoc copyright arbitration royalty panels administered by the Library of Congress and the Copyright Office antiquates and eliminates the need for many of the Tribunal's regulations, while at the same time requiring the adoption of various new rules tailored to the new system. It is plainly obvious that a thorough examination and revision of the Tribunal's former rules must be undertaken, as permitted by the Reform Act, in accordance with the rulemaking procedures of the APA. The time required to complete such a rulemaking, however, precludes the possibility of adopting a revision concurrent with the enactment of the Reform Act. Nevertheless, the Reform Act requires the Librarian to adopt the rules and regulations of the Tribunal on the date of enactment "unless and until" they are revised or supplanted by a future rulemaking.

Therefore, under the general rulemaking authority of the Copyright Act, 17 U.S.C.

702, and the specific authority of 17 U.S.C. 802(d), the Copyright Office of the Library of Congress formally adopts the rules and regulations of chapter III of title 37 of the Code of Federal Regulations on an interim basis. It is the intention of the Copyright Office to initiate as soon as possible a rulemaking proceeding to revise these rules and regulations to fully satisfy the requirements of the Reform Act. Until such time, however, the Copyright Office is today making only nonsubstantive technical amendments to the rules and regulations of chapter III of title 37 of the Code of Federal Regulations to conform with procedural requirements.

First, the Copyright Office is renaming the title of chapter III by deleting "Copyright Royalty Tribunal" and inserting "Copyright Office, Library of Congress", as well as changing the authority citation for each part of chapter III. Second, the Office is deleting the reference to the "Copyright Royalty Tribunal" or "Tribunal", including possessives, and replacing it with "copyright arbitration royalty panel and/or Librarian of Congress". [The use of the broad phrase "copyright arbitration royalty panel and/or Librarian of Congress" is necessary at this time since the Tribunal's former duties are split between the panels and the Librarian. Identification of the specific authority in each instance would require a substantial revision of the Tribunal's former regulations, which is outside the scope of today's proceeding. The Copyright Office will address the division of authority in its future rulemaking; today's action is required to eliminate reference to the now defunct Tribunal. Third, the Office is deleting the reference to "Chairman" each place it appears in chapter III, and replacing it with "chairperson" to denote the chairperson of a copyright arbitration royalty panel. Finally, the Office is amending §301.2 to delete the Tribunal's address

and inserting the appropriate mailing address at the Copyright Office.

Interim regulations

In consideration of the foregoing, the Copyright Office of the Library of Congress, under its authority in 17 U.S.C. 802(d), adopts the rules and regulations set forth in chapter III of title 37 of the Code of Federal Regulations with the following amendments:

1. The heading for chapter III is revised to read as follows:

Chapter III--Copyright Office, Library of Congress

2. The heading for part 301 is revised to read as follows:

Part 301--Copyright Arbitration Royalty Panel Rules of Procedure

Parts 301 through 311 [Amended]

3. The authority citation for parts 301 through 311 is revised to read as follows:

Authority: 17 U.S.C. 702, 802.

4. The term "Copyright Royalty Tribunal" is revised each place it appears in chapter III to read "copyright arbitration

royalty panel and/or Librarian of Congress". "Copyright" is capitalized when the term appears at the beginning of a sentence.

5. The term "Tribunal" is revised each place it appears in chapter III to read "copyright arbitration royalty panel and/or Librarian of Congress". "Copyright" is capitalized when the term appears at the beginning of a sentence.

6. The term "Tribunal's" is revised each place it appears in chapter III to read "copyright arbitration royalty panel's and/or Librarian of Congress's". "Copyright" is capitalized when the term appears at the beginning of a sentence.

7. The term "Chairman" is revised each place it appears in chapter III to read "chairperson". "Chairperson" is capitalized when the term appears at the beginning of a sentence.

8. The term "Chairman's" is revised each place it appears in chapter III to read "chairperson's". "Chairperson's" is capitalized when the term appears at the beginning of a sentence.

9. Section 301.2 of chapter III is revised to read as follows:

§301.2 Official address and information

The official address for all information, matters and proceedings under this chapter is Copyright Office, Copyright Arbitration Royalty Panels, Library of Congress, Washington DC 20557. Telephone (202) 707-8150.

Barbara Ringer,
Acting Register of Copyrights.

Approved by:

James H. Billington,
The Librarian of Congress.

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