



ANNOUNCEMENT

from the Copyright Office, Library of Congress,
101 Independence Avenue, S.E., Washington, D.C. 20559-6000

INTERIM RULE

NOTICE OF TERMINATION

The following excerpt is taken from Volume 67, Number 246 of the *Federal Register* of Monday, December 23, 2002 (pp. 78176-78178)

LIBRARY OF CONGRESS

Copyright Office
37 CFR Part 201
[Docket No. 2002-5A]

Notice of Termination

AGENCY: Copyright Office, Library of Congress.

ACTION: Interim rule.

SUMMARY: The Copyright Office is announcing an interim regulation governing the form, content, and manner of service of notices of termination of transfers or licenses of copyright that were granted in or after 1978. Such notices may be served, for the first time, commencing January 1, 2003. The interim regulation is based on a proposed regulation recently published in the **Federal Register**.

EFFECTIVE DATE: January 1, 2003.

FOR FURTHER INFORMATION CONTACT: David O. Carson, General Counsel. Telephone: (202) 707-8380. Telefax: (202) 707-8366.

SUPPLEMENTARY INFORMATION: On December 20, 2002, the Copyright Office published a proposed regulation governing the form, content, and manner of service of notices of termination to terminate transfers or licenses of copyright that were granted in or after 1978. Such notices of termination are permitted pursuant to 17 U.S.C. 203, and may be served, for the first time, commencing January 1, 2003.

Because the comment period for the proposed regulations will extend into 2003, and because it is necessary to have in place a regulation governing the form, content, and manner of service of these notices of termination on January 1, 2003, so that persons entitled to serve such notices will know the requirements for the notices, the Office is announcing this interim regulation. The regulation will be in effect only until the Office has had the opportunity to consider the comments received

in response to the notice of proposed rulemaking, and to publish a final regulation.

The interim regulation is identical to the proposed regulation with one exception. The proposed regulation amends Sec. 201.10(b)(1)(i) of the Copyright Office regulations to require that a notice of termination pursuant to section 17 U.S.C. 304 must identify whether the termination is made under section 304(c) or section 304(d). Because this proposed amendment would change established practice with respect to terminations under section 304(c), and because we do not believe it would be prudent to change the requirements for section 304 notices of termination on such short notice, that proposed amendment is not included in the interim regulation.

Because it is necessary to have such a regulation in place by January 1, 2003, the Register of Copyrights finds that notice and public procedure are impracticable and contrary to public interest and that good cause exists for publication of this interim regulation less than 30 days before its effective date and without first seeking public comment.

The entire text of Sec. 201.10, as amended, may be found on the Copyright Office Web site at <http://www.copyright.gov/docs/203.html>.

List of Subjects in 37 CFR Part 201

Copyright.

In consideration of the foregoing, 37 CFR part 201 is amended as follows:

PART 201—GENERAL PROVISIONS

1. The authority citation for part 201 continues to read as follows:

Authority: 17 U.S.C. 702.

2. Section 201.10 is amended as follows:

(a) By revising the section heading and the first sentence of the introductory text.

(b) By revising paragraph (b)(1) introductory text.

(c) By revising paragraph (b)(1)(v).

(d) By revising paragraph (b)(1)(vii)(B).

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(e) By redesignating paragraph (b)(2) as paragraph (b)(3); and adding a new paragraph (b)(2).

(f) By revising newly designated paragraph (b)(3).

(g) By revising paragraph (c)(1) and (c)(2).

(h) By redesignating paragraphs (c)(3) and (c)(4) as paragraphs (c)(4) and (c)(5), respectively; and adding a new paragraph (c)(3).

(i) By revising the introductory text of paragraph (d)(2).

(j) By revising the first sentence of paragraph (d)(4).

(k) By revising paragraph (e)(1).

(l) By revising paragraph (e)(2).

The additions and revisions to Sec. 201.10 read as follows:

Sec. 201.10 Notices of termination of transfers and licenses.

This section covers notices of termination of transfers and licenses under sections 203, 304(c) and 304(d) of title 17, of the United States Code. * * *

* * * * *

(b) * * *

(1) A notice of termination covering the extended renewal term under sections 304(c) and 304(d) of title 17, U.S.C., must include a clear identification of each of the following:

* * * * *

(v) The effective date of termination;

* * * * *

(vii) * * *

(B) A statement that, to the best knowledge and belief of the person or persons signing the notice, the notice has been signed by all persons whose signature is necessary to terminate the grant under section 304 of title 17, U.S.C., or by their duly authorized agents.

(2) A notice of termination of an exclusive

or nonexclusive grant of a transfer or license of copyright or of any right under a copyright, executed by the author on or after January 1, 1978, under section 203 of title 17, U.S.C., must include a clear identification of each of the following:

- (i) A statement that the termination is made under section 203;
- (ii) The name of each grantee whose rights are being terminated, or the grantee's successor in title, and each address at which service of the notice is being made;
- (iii) The date of execution of the grant being terminated and, if the grant covered the right of publication of a work, the date of publication of the work under the grant;
- (iv) For each work to which the notice of termination applies, the title of the work and the name of the author or, in the case of a joint work, the authors who executed the grant being terminated; and, if possible and practicable, the original copyright registration number;
- (v) A brief statement reasonably identifying the grant to which the notice of termination applies;

(vi) The effective date of termination; and
(vii) In the case of a termination of a grant executed by one or more of the authors of the work where the termination is exercised by the successors of a deceased author, a listing of the names and relationships to that deceased author of all of the following, together with specific indication of the person or persons executing the notice who constitute more than one-half of that author's termination interest: That author's surviving widow or widower; and all of that author's surviving children; and, where any of that author's children are dead, all of the surviving children of any such deceased child of that author; however, instead of the information required by this paragraph (b)(2)(vii), the notice may contain both of the following:

(A) A statement of as much of such information as is currently available to the person or persons signing the notice, with a brief explanation of the reasons why full information is or may be lacking; together with

(B) A statement that, to the best knowledge and belief of the person or persons signing the notice, the notice has been signed by all persons whose signature is necessary to terminate the grant under section 203 of title 17, U.S.C., or by their duly authorized agents.

(3) Clear identification of the information specified by paragraphs (b)(1) and (b)(2) of this section requires a complete and unambiguous statement of facts in the notice itself, without incorporation by reference of information in other documents or records.

(c) *Signature.* (1) In the case of a termination of a grant under section 304(c) or section 304(d) executed by a person or persons other than the author, the notice shall be signed by all of the surviving person or persons who executed the grant, or by their duly authorized agents.

(2) In the case of a termination of a grant

under section 304(c) or section 304(d) executed by one or more of the authors of the work, the notice as to any one author's share shall be signed by that author or by his or her duly authorized agent. If that author is dead, the notice shall be signed by the number and proportion of the owners of that author's termination interest required under section 304(c) or section 304(d), whichever applies, of title 17, U.S.C., or by their duly authorized agents, and shall contain a brief statement of their relationship or relationships to that author.

(3) In the case of a termination of a grant under section 203 executed by one or more of the authors of the work, the notice shall be signed by each author who is terminating the grant or by his or her duly authorized agent. If that author is dead, the notice shall be signed by the number and proportion of the owners of that author's termination interest required under section 203 of title 17, U.S.C., or by their duly authorized agents, and shall contain a brief statement of their relationship or relationships to that author.

* * * * *

(d) * * *

(2) The service provision of section 203, section 304(c) or section 304(d) of title 17, U.S.C., whichever applies, will be satisfied if, before the notice of termination is served, a reasonable investigation is made by the person or persons executing the notice as to the current ownership of the rights being terminated, and based on such investigation:

* * * * *

(4) Compliance with the provisions of paragraphs (d)(2) and (d)(3) of this section will satisfy the service requirements of section 203, section 304(c), or section 304(d) of title 17, U.S.C., whichever applies.* * *

(e) *Harmless errors.* (1) Harmless errors in a notice that do not materially affect the adequacy of the information required to serve the purposes of section 203, section 304(c), or section 304(d) of title 17, U.S.C., whichever applies, shall not render the notice invalid.

(2) Without prejudice to the general rule provided by paragraph (e)(1) of this section, errors made in giving the date or registration number referred to in paragraph (b)(1)(iii), (b)(2)(iii), or (b)(2)(iv) of this section, or in complying with the provisions of paragraph (b)(1)(vii) or (b)(2)(vii) of this section, or in describing the precise relationships under paragraph (c)(2) or (c)(3) of this section, shall not affect the validity of the notice if the errors were made in good faith and without any intention to deceive, mislead, or conceal relevant information.

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Dated: December 17, 2002.

Marybeth Peters,
Register of Copyrights.

Approved by:

James H. Billington,
The Librarian of Congress.

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