

readers that render the text into a specialized format.

(c) *Definition.* “Specialized format,” “digital text” and “authorized entities” shall have the same meaning as in 17 U.S.C. 121.

[65 FR 64574, Oct. 27, 2000, as amended at 68 FR 62018, Oct. 31, 2003; 71 FR 68479, Nov. 27, 2006; 74 FR 55139, Oct. 27, 2009; 75 FR 43839, July 27, 2010; 75 FR 47465, Aug. 6, 2010]

PART 202—PREREGISTRATION AND REGISTRATION OF CLAIMS TO COPYRIGHT

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APPENDIX B TO PART 202—“BEST EDITION” OF PUBLISHED COPYRIGHTED WORKS FOR THE COLLECTIONS OF THE LIBRARY OF CONGRESS

AUTHORITY: 17 U.S.C. 408(f), 702

EDITORIAL NOTE: Nomenclature changes to part 202 appear at 76 FR 27898, May 13, 2011.

§ 202.1 Material not subject to copyright.

The following are examples of works not subject to copyright and applications for registration of such works cannot be entertained:

(a) Words and short phrases such as names, titles, and slogans; familiar symbols or designs; mere variations of typographic ornamentation, lettering or coloring; mere listing of ingredients or contents;

(b) Ideas, plans, methods, systems, or devices, as distinguished from the particular manner in which they are expressed or described in a writing;

(c) 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;

(d) Works consisting entirely of information that is common property containing no original authorship, such as, for example: Standard calendars, height and weight charts, tape measures and rulers, schedules of sporting events, and lists or tables taken from public documents or other common sources.

(e) Typeface as typeface.

[24 FR 4956, June 18, 1959, as amended at 38 FR 3045, Feb. 1, 1973; 57 FR 6202, Feb. 21, 1992]

§ 202.2 Copyright notice.

(a) *General.* (1) With respect to a work published before January 1, 1978, copyright was secured, or the right to secure it was lost, except for works seeking *ad interim* copyright, at the date of publication, *i.e.*, the date on which copies are first placed on sale, sold, or publicly distributed, depending upon the adequacy of the notice of copyright on the work at that time. The adequacy of the copyright notice for such a work is determined by the copyright statute as it existed on the date of first publication.

(2) If before January 1, 1978, publication occurred by distribution of copies or in some other manner, without the statutory notice or with an inadequate notice, as determined by the copyright statute as it existed on the date of first publication, the right to secure copyright was lost. In such cases, copyright cannot be secured by adding the notice to copies distributed at a later date.

(3) Works first published abroad before January 1, 1978, other than works for which *ad interim* copyright has been obtained, must have borne an adequate

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copyright notice. The adequacy of the copyright notice for such works is determined by the copyright statute as it existed on the date of first publication abroad.

(b) *Defects in notice.* Where the copyright notice on a work published before January 1, 1978, does not meet the requirements of title 17 of the United States Code as it existed on December 31, 1977, the Copyright Office will reject an application for copyright registration. Common defects in the notice include, among others the following:

(1) The notice lacks one or more of the necessary elements (*i.e.*, the word "Copyright," the abbreviation "Copr.," or the symbol ©, or, in the case of a sound recording, the symbol Ⓒ; the name of the copyright proprietor, or, in the case of a sound recording, the name, a recognizable abbreviation of the name, or a generally known alternative designation, of the copyright owner; and, when required, the year date of publication);

(2) The elements of the notice are so dispersed that a necessary element is not identified as a part of the notice; in the case of a sound recording, however, if the producer is named on the label or container, and if no other name appears in conjunction with the notice, his name will be considered a part of the notice;

(3) The notice is not in one of the positions prescribed by law;

(4) The notice is in a foreign language;

(5) The name in the notice is that of someone who had no authority to secure copyright in his name;

(6) The year date in the copyright notice is later than the date of the year in which copyright was actually secured, including the following cases:

(i) Where the year date in the notice is later than the date of actual publication;

(ii) Where copyright was first secured by registration of a work in unpublished form, and copies of the same work as later published without change in substance bear a copyright notice containing a year date later than the year of unpublished registration;

(iii) Where a book or periodical published abroad, for which *ad interim* copyright has been obtained, is later

published in the United States without change in substance and contains a year date in the copyright notice later than the year of first publication abroad:

Provided, however, That in each of the three foregoing types of cases, if the copyright was actually secured not more than one year earlier than the year date in the notice, registration may be considered as a doubtful case.

(7) A notice is permanently covered so that it cannot be seen without tearing the work apart;

(8) A notice is illegible or so small that it cannot be read without the aid of a magnifying glass: *Provided, however,* That where the work itself requires magnification for its ordinary use (e.g., a microfilm, microcard or motion picture) a notice which will be readable when so magnified, will not constitute a reason for rejection of the claim;

(9) A notice is on a detachable tag and will eventually be detached and discarded when the work is put in use;

(10) A notice is on the wrapper or container which is not a part of the work and which will eventually be removed and discarded when the work is put to use; the notice may be on a container which is designed and can be expected to remain with the work;

(11) The notice is restricted or limited exclusively to an uncopyrightable element, either by virtue of its position on the work, by the use of asterisks, or by other means.

[24 FR 4956, June 18, 1959; 24 FR 6163, July 31, 1959, as amended at 37 FR 3055, Feb. 11, 1972; 46 FR 33249, June 29, 1981; 46 FR 34329, July 1, 1981; 60 FR 34168, June 30, 1995; 66 FR 34373, June 28, 2001; 66 FR 40322, Aug. 2, 2001; 77 FR 18707, Mar. 28, 2012; 77 FR 20988, Apr. 9, 2012]

§ 202.3 Registration of copyright.

(a) *General.* (1) This section prescribes conditions for the registration of copyright, and the application to be made for registration under sections 408 and 409 of title 17 of the United States Code, as amended by Pub. L. 94-553.

(2) For the purposes of this section, the terms *audiovisual work, compilation, copy, derivative work, device, fixation, literary work, motion picture, phonorecord, pictorial, graphic and sculptural works,*

process, sound recording, and their variant forms, have the meanings set forth in section 101 of title 17. The term *author* includes an employer or other person for whom a work is “made for hire” under section 101 of title 17.

(3) For the purposes of this section, a copyright *claimant* is either:

- (i) The author of a work;
- (ii) A person or organization that has obtained ownership of all rights under the copyright initially belonging to the author.¹

(b) *Administrative classification and application forms*—(1) *Classes of works*. For the purpose of registration, the Register of Copyrights has prescribed the classes of works in which copyright may be claimed. These classes, and examples of works which they include, are as follows:

(i) *Class TX: Nondramatic literary works*. This class includes all published and unpublished nondramatic literary works. Examples: Fiction; nonfiction; poetry; textbooks; reference works; directories; catalogs; advertising copy; and compilations of information.

(ii) *Class PA: Works of the performing arts*. This class includes all published and unpublished works prepared for the purpose of being performed directly before an audience or indirectly by means of a device or process. Examples: Musical works, including any accompanying words; dramatic works, including any accompanying music; pantomimes and choreographic works; and motion pictures and other audiovisual works.

(iii) *Class VA: Works of the visual arts*. This class includes all published and unpublished pictorial, graphic, and sculptural works. Examples: Two dimensional and three dimensional works of the fine, graphic, and applied arts; photographs; prints and art reproductions; maps, globes, and charts; technical drawings, diagrams, and models; and pictorial or graphic labels and advertisements.

(iv) *Class SR: Sound recordings*. This class includes all published and unpub-

lished sound recordings fixed on and after February 15, 1972. Claims to copyright in literary, dramatic, and musical works embodied in phonorecords may also be registered in this class under paragraph (b)(4) of this section if:

(A) Registration is sought on the same application for both a recorded literary, dramatic, or musical work and a sound recording;

(B) The recorded literary, dramatic, or musical work and the sound recording are embodied in the same phonorecord; and

(C) The same claimant is seeking registration of both the recorded literary, dramatic, or musical work and the sound recording.

(v) *Class SE: Serials*. A serial is a work issued or intended to be issued in successive parts bearing numerical or chronological designations and intended to be continued indefinitely. This class includes periodicals; newspapers; annuals; and the journals, proceedings, transactions, etc. of societies.

(2) *Submission of application for registration*. For purposes of registration, an applicant may submit an application for registration of individual works and certain groups of works electronically through the Copyright Office’s Web site, or by using the printed forms prescribed by the Register of Copyrights.

(i) An applicant may submit an application electronically through the Copyright Office Web site [www.copyright.gov]. An online submission requires a payment of the application fee through an electronic fund transfer, credit or debit card, or through a Copyright Office deposit account. Deposit materials in support of the online application may be submitted electronically in a digital format along with the application and payment, or deposit materials in physically tangible formats may be separately mailed to the Copyright Office, using a mailing label generated during the online registration process, or

(ii) (A) Alternatively, an applicant may submit an application on one of the printed forms prescribed by the Register of Copyrights. Each printed form corresponds to a class set forth in paragraph (b)(1) of this section and is

¹This category includes a person or organization that has obtained, from the author or from an entity that has obtained ownership of all rights under the copyright initially belonging to the author, the contractual right to claim legal title to the copyright in an application for copyright registration.

so designated (“Form TX”; “Short Form TX”; “Form PA”; “Short Form PA”; “Form VA”; “Short Form VA”; “Form SR”; “Form SE”; “Short Form SE”; and “Form SE/Group”).

(B) Short form applications may only be used if certain conditions are met. Short Form TX, Short Form PA, and Short Form VA may be used only to register a single work in a case when a living author who is the only author of his or her work is the sole owner of the copyright in the work, the work is not a compilation or derivative work containing a substantial amount of previously published or registered material, and the work is not a work made for hire. Short Form SE may be used only if the claim is in a collective work, the work is essentially an all-new collective work or issue, the author is a citizen or domiciliary of the United States, the work is a work for hire, the author(s) and claimant(s) are the same person(s) or organization(s), and the work was first published in the United States.

(C) Printed form applications should be submitted in the class most appropriate to the nature of the authorship in which copyright is claimed. In the case of contributions to collective works, applications should be submitted in the class representing the copyrightable authorship in the contribution. In the case of derivative works, applications should be submitted in the class most appropriately representing the copyrightable authorship involved in recasting, transforming, adapting, or otherwise modifying the preexisting work. In cases where a work contains elements of authorship in which copyright is claimed which fall into two or more classes, the application should be submitted in the class most appropriate to the type of authorship that predominates in the work as a whole. However, in any case where registration is sought for a work consisting of or including a sound recording in which copyright is claimed, the application shall be submitted on Form SR.

(D) Copies of the printed forms are available on the Copyright Office’s Web site [www.copyright.gov] and upon request to the Copyright Public Information Office, Library of Congress. Print-

ed form applications may be completed and submitted by completing a printed version or using a PDF version of the applicable Copyright Office application form and mailing it together with the other required elements, *i.e.*, physically tangible deposit copies and/or materials, and the required filing fee, all elements being placed in the same package and sent by mail or hand-delivered to the Copyright Office.

(3) *Continuation sheets.* A continuation sheet (Form CON) is appropriate only in the case when a printed form application is used and where additional space is needed by the applicant to provide all relevant information concerning a claim to copyright. An application may include more than one continuation sheet, subject to the limitations in paragraph (b)(10)(v) of this section.

(4) *Registration as a single work.* (i) For the purpose of registration on a single application and upon payment of a single registration fee, the following shall be considered a single work:

(A) In the case of published works: all copyrightable elements that are otherwise recognizable as self-contained works, that are included in a single unit of publication, and in which the copyright claimant is the same; and

(B) In the case of unpublished works: all copyrightable elements that are otherwise recognizable as self-contained works, and are combined in a single unpublished “collection.” For these purposes, a combination of such elements shall be considered a “collection” if:

(1) The elements are assembled in an orderly form;

(2) The combined elements bear a single title identifying the collection as a whole;

(3) The copyright claimant in all of the elements, and in the collection as a whole, is the same; and

(4) All of the elements are by the same author, or, if they are by different authors, at least one of the authors has contributed copyrightable authorship to each element.

Registration of an unpublished “collection” extends to each copyrightable element in the collection and to the authorship, if any, involved in selecting and assembling the collection.

(ii) In the case of applications for registration made under paragraphs (b)(4) through (b)(10) of this section, the “year in which creation of this work was completed”, as called for by the application, means the latest year in which the creation of any copyrightable element was completed.

(5) *Group registration of related works: Automated databases.* (i) Pursuant to the authority granted by section 408(c)(1) of title 17 of the United States Code, the Register of Copyrights has determined that, on the basis of a single application, deposit, and filing fee, a single registration may be made for automated databases and their updates or other derivative versions that are original works of authorship, if, where a database (or updates or other revisions thereof), if unpublished, is (or are) fixed, or if published is (or are) published only in the form of machine-readable copies, all of the following conditions are met:

(A) All of the updates or other revisions are owned by the same copyright claimant;

(B) All of the updates or other revisions have the same general title;

(C) All of the updates or other revisions are similar in their general content, including their subject;

(D) All of the updates or other revisions are similar in their organization;

(E) Each of the updates or other revisions as a whole, if published before March 1, 1989, bears a statutory copyright notice as first published and the name of the owner of copyright in each work (or an abbreviation by which the name can be recognized, or a generally known alternative designation of the owner) was the same in each notice;

(F) Each of the updates or other revisions if published was first published, or if unpublished was first created, within a three-month period in a single calendar year; and

(G) The deposit accompanying the application complies with § 202.20(c)(2)(vii)(D).

(ii) A single registration may be made on one application for both a database published on a single date, or if unpublished, created on a single date, and also for its copyrightable revisions, including updates covering a three-month period in a single calendar

year. An application for group registration of automated databases under section 408(c)(1) of title 17 and this subsection shall consist of:

(A) A form that best reflects the subject matter of the material in the database as set forth in paragraph (b)(2) of this section, completed in accordance with the basic instructions on the form and the Special Instructions for Group Registration of an Automated Database and its Updates or Revisions, except that in the case of an application for group registration of an automated database consisting predominantly of photographs, after consultation and with the permission and under the direction of the Visual Arts Division, the application may be submitted electronically.

(B) The appropriate filing fee, as required in § 201.3(c); and

(C) The deposit required by § 202.20(c)(2)(vii)(D).

(6) *Group registration of related serials.* (i) Pursuant to the authority granted by section 408(c)(1) of title 17 of the United States Code, the Register of Copyrights has determined that, on the basis of a single application, deposit, and filing fee, a single registration may be made for a group of serials published at intervals of a week or longer if all the following conditions are met:

(A) The Library of Congress receives two complimentary copies promptly after publication of each issue of the serial.

(B) The single application covers no more than the issues published in a given three month period.

(C) The claim to copyright for which registration is sought is in the collective work.

(D) The collective work authorship is essentially new material that is being published for the first time.

(E) The collective work is a work made for hire.

(F) The author(s) and claimant(s) of the collective work is the same person(s) or organization(s).

(G) Each issue must have been created no more than one year prior to publication and all issues included in the group registration must have been published in the same calendar year.

(ii) To be eligible for group registration of serials, publishers must submit

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a letter affirming that two complimentary subscriptions to the particular serial have been entered for the Library of Congress. The letter should be sent to Group Periodicals Registration, Library of Congress, Washington, DC 20540-4161.

(iii) The complimentary subscription copies must be addressed to: Group Periodicals Registration, Library of Congress, Washington, DC 20540-4161.

(iv) The Register of Copyrights may revoke the privilege of group registration of serials for any publisher who fails to submit the required complimentary subscription copies promptly after publication of each issue. Notice of revocation of the group registration of serials privilege shall be given in writing and shall be sent to the individual person or organization applying for group registration of serials, at the last address shown in the records of the Copyright Office. A notice of revocation may be given at any time if the requirements of the regulation are not satisfied, but it shall state a specific date of revocation that is at least 30 days later than the date the notice is mailed.

(v) To apply for group registration of serials under section 408(c)(1) of title 17 and this subsection, the following items must be sent together in the same package:

(A) A completed Form SE/Group, giving the requested information.

(B) The appropriate filing fee, as required in §201.3(c), for each issue covered by the group registration.

(C) A deposit consisting of one complete copy of the best edition of each issue included in the group registration.

(7) *Group registration of daily newspapers.* (i) Pursuant to the authority granted by 17 U.S.C. 408(c)(1), the Register of Copyrights has determined that, on the basis of a single application, microfilm deposit, and filing fee, a single registration may be made for a group of daily newspapers published in a microfilm format if the following conditions are met:

(A) Registration covers a full month of issues of the same newspaper title published with issue dates in one calendar month.

(B) A completed GDN application form is submitted.

(C) A publication date is specified designating the first and last day that issues in the group were published.

(D) A deposit is made of positive, 35mm silver halide microfilm meeting the Library's best edition criteria that includes all issues published as final editions in the designated calendar month. In addition to the final edition of the daily newspaper, the claim to copyright and the deposit may also include earlier editions published the same day in a given metropolitan area served by the newspaper, but may not include national or regional editions distributed beyond a given metropolitan area.

(E) The appropriate filing fee, as required in §201.3(c), is included with the submission or charged to an active deposit account.

(F) Registration is sought within three months after the publication date of the last issue included in the group.

(ii) As used in this regulation, newspapers means serials which are classified as newspapers under the policy document "Newspapers Received Currently in the Library of Congress," which is administered by the Newspaper Section of the Serials & Government Publications Division of the Library of Congress. In general, serials classified as newspapers are serials mainly designed to be a primary source of written information on current events, either local, national, or international in scope. A newspaper contains a broad range of news on all subjects and activities and is not limited to any specific subject matter. Newspapers are intended either for the general public or for a particular ethnic, cultural, or national group.

(8) *Group registration of contributions to periodicals.* (i) As provided by section 408(c)(2) of title 17 of the United States Code, as amended by Pub. L. 94-553, a single registration, on the basis of a single application, deposit, and registration fee, may be made for a group of works if all of the following conditions are met:

(A) All of the works are by the same author;

(B) The author of each work is an individual, and not an employer or other person for whom the work was made for hire;

(C) Each of the works was first published as a contribution to a periodical (including newspapers) within a twelve-month period;²

(D) Each of the works, if first published before March 1, 1989, bore a separate copyright notice, and the name of the owner of copyright in each work (or an abbreviation by which the name can be recognized, or a generally known alternative designation of the owner) was the same in each notice; and

(E) The deposit accompanying the application must consist of one of the following: one copy of the entire issue of the periodical, or, in the case of a newspaper, the entire section containing the contribution; tear sheets or proof copies of the contribution; a photocopy of the contribution itself, or a photocopy of the entire page containing the contribution; the entire page containing the contribution cut or torn from the collective work; the contribution cut or torn from the collective work; or photographs or photographic slides of the contribution or entire page containing the contribution as long as all contents of the contribution to be registered are clear and legible.

(ii) An application for group registration under section 408(c)(2) of title 17 and paragraph (b)(8) of this section shall consist of:

(A) A basic application for registration on Form TX, Form PA, or Form VA,³ which shall contain the informa-

²This does not require that each of the works must have been first published during the same calendar year; it does require that, to be grouped in a single application, the earliest and latest contributions must not have been first published more than twelve months apart.

³The basic application should be filed in the class appropriate to the nature of authorship in the majority of the contributions. However, if any of the contributions consists preponderantly of nondramatic literary material that is in the English language, the basic application for the entire group should be submitted on Form TX.

tion required by the form and its accompanying instructions;

(B) An adjunct form prescribed by the Copyright Office and designated "Adjunct Application for Copyright Registration for a Group of Contributions to Periodicals (Form GR/CP)", which shall contain the information required by the form and its accompanying instructions; and

(C) The appropriate filing fee, as required in §201.3(c), and the deposit required by paragraph (b)(8)(i)(E) of this section.

(9) *Group registration of daily newsletters.* Pursuant to the authority granted by 17 U.S.C. 408(c)(1), the Register of Copyrights has determined that, on the basis of a single application, deposit, and filing fee, a single registration may be made for a group of two or more issues of a daily newsletter if the following conditions are met:

(i) As used in this regulation, daily newsletter means a serial published and distributed by mail or electronic media (online or telefacsimile), or in any medium including but not limited to, paper, cassette tape, diskette or CD-ROM. Publication must occur on at least two days each week and the newsletter must contain news or information of interest chiefly to a special group (for example, trade and professional associations, corporate in-house groups, schools, colleges, or churches).

(ii) The works must be essentially all new collective works or all new issues that have not been published before.

(iii) Each issue must be a work made for hire.

(iv) The author(s) and claimant(s) must be the same person(s) or organization(s) for all of the issues.

(v) All the items in the group must bear issue dates within a single calendar month under the same continuing title.

(vi) Deposit. (A). The deposit for newsletters registered under this section is one complete copy of each issue included in the group.

(B). In addition, if requested in writing by the Copyright Acquisitions Division before an application for registration is submitted, the claimant must give the Library of Congress whichever

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of the following the Library prefers: either as many as two complimentary subscriptions of the newsletter in the edition most suitable to the Library's needs, or a single positive, 35 mm silver halide microfilm meeting the Library's best edition criteria that includes all issues published as final editions in the designated calendar month. Subscription copies must be delivered to the separate address specified by the Copyright Acquisitions Division in its request. Subscription copies or a microfilm are not required unless expressly requested by the Copyright Acquisitions Division.

(C) The copyright owner of any newsletter that cannot meet the criteria set out in this section may continue to register on Form SE or Short Form SE.

(vii) Registration is sought within three months after the publication date of the last issue included in the group.

(viii) A Form G/DN shall be submitted for daily newsletters bearing issue dates within a single month, together with one copy of each issue, and a filing fee. The application shall designate the first and last day that issues in the group were published.

(10) *Group registration of published photographs.* Pursuant to the authority granted by 17 U.S.C. 408(c)(1), the Register of Copyrights will accept a single application (on Form VA), deposit and filing fee for registration of a group of photographs if the following conditions are met:

(i) The copyright claimant in all of the photographs must be the same.

(ii) The photographer who photographed each of the photographs submitted for registration as part of the group must be the same person.

(iii) The photographs in the group must have been published within the same calendar year.

(iv) If the photographs in a group were all published on the same date, the date of publication must be identified in space 3b of the application. If the photographs in a group were not all published on the same date, the range of dates of publication (e.g., February 15–September 15, 2004) must be provided in space 3b of the application, and the date of publication of each photograph

within the group must be identified either:

(A) On each deposited image;

(B) In a text file on the CD-ROM or DVD that contains the deposited photographic images;

(C) On a list that accompanies the deposit and provides the publication date for each image; or

(D) On a special continuation sheet (Form GR/PPh/CON) provided by the Copyright Office. Dates of publication must be provided in a way that clearly identifies the date of publication for each individual photograph in the group.

(v) If the applicant chooses to identify the date of publication for each photograph in the group on a continuation sheet, the application may include no more than 50 continuation sheets identifying no more than 750 photographs. For these purposes, the applicant must use the special continuation sheet (Form GR/PPh/CON) for registration of a group of photographs made available by the Copyright Office.

(vi) If each photograph within the group was first published within three months before the date on which an acceptable application, an acceptable deposit, and the applicable fee are received in the Copyright Office, the applicant may, in lieu of the procedure set forth in paragraph (b)(10)(iv) of this section, simply state the range of dates of publication (e.g., February 15–May 15, 2001) in space 3b of the application, without specifically identifying the date of publication of each photograph in the group either on the deposited image or on a continuation sheet.

(vii) The deposit(s) and application must be accompanied by the fee set forth in §201.3(c) of this chapter for a basic registration.

(viii) The applicant must state "Group Registration/Photos" and state the approximate number of photographs included in the group in space 1 of the application Form VA under the heading "Previous or Alternative Titles" (e.g., "Group Registration/Photos; app. 450 photographs").

(ix) If the photographs in the group are works made for hire, the applicant must note, as part of the applicant's entry in space 2 of the application

Form VA for “Name of Author,” both the name of the employer for hire and the name of the photographer who photographed the works in the group (e.g., “XYZ Corporation, employer for hire of John Doe”).

(x) As an alternative to the best edition of the work, one copy of each photograph shall be submitted in one of the formats set forth in § 202.20(c)(2)(xx).

(xi) Instead of using Form VA, an applicant may submit an electronic application for group registration of published photographs after consultation and with the permission and under the direction of the Visual Arts Division.

(1) *One registration per work.* As a general rule only one copyright registration can be made for the same version of a particular work. However:

(i) Where a work has been registered as unpublished, another registration may be made for the first published edition of the work, even if it does not represent a new version;

(ii) Where someone other than the author is identified as copyright claimant in a registration, another registration for the same version may be made by the author in his or her own name as copyright claimant;⁴

(iii) Where an applicant for registration alleges that an earlier registration for the same version is unauthorized and legally invalid, a registration may be made by that applicant; and

(iv) Supplementary registrations may be made, under the conditions of § 201.5 of these regulations, to correct or amplify the information in a registration made under this section.

(c) *Application for registration.* (1) An application for copyright registration may be submitted by any author or other copyright claimant of a work, or the owner of any exclusive right in a work, or the duly authorized agent of

any such author, other claimant, or owner.

(2) An application for copyright registration shall be submitted by using one of the methods set forth in paragraph (b) of this section. All completed application forms shall be accompanied by the appropriate filing fee, as required in § 201.3(c) of this chapter, and the deposit copies and materials required under 17 U.S.C. 408 and § 202.20.⁶ All applications submitted for registration shall supply the information required by the particular application and shall include a certification. The certification shall consist of:

(i) A designation that the party signing the print application, or submitting the application electronically, falls within an accepted status from among the following: author, claimant, an owner of exclusive rights, or a duly authorized agent of the author, claimant, owner of exclusive rights;

(ii) For print applications, the handwritten signature of the party described in paragraph (c)(2)(i) of this section accompanied by the typed or printed name of that party; or, if an electronically submitted application, a name provided within the certification screen of the electronic application which represents a party described in paragraph (c)(2)(i) of this section;

(iii) A declaration that information provided within the application is correct to the best of that party’s knowledge; and,

(iv) For print applications, the date of completion of the application form, with the date (month, day, year) printed, typed, or handwritten; or, if an electronically submitted application, the date of electronic receipt of the application by the Copyright Office, which date shall be provided automatically by the Copyright Office.

An application for registration of a published work will not be accepted if the date of certification is earlier than

⁴An *author* includes an employer or other person for whom a work is “made for hire” under 17 U.S.C. 101. This paragraph does not permit an employee or other person working “for hire” under that section to make a later registration in his or her own name. In the case of authors of a joint work, this paragraph does permit a later registration by one author in his or her own name as copyright claimant, where an earlier registration identifies only another author as claimant.

⁶In the case of applications for group registration of newspapers, contributions to periodicals, and newsletters, under paragraphs (b)(7), (b)(8), and (b)(9) of this section, the deposits shall comply with the deposits specified in the respective paragraphs, and the fees with those specified in § 201.3.

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the date of publication given in the application.

(Pub. L. 94-553; secs. 408, 409, 410, 702)

[43 FR 966, Jan. 5, 1978]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 202.3, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at www.fdsys.gov.

§ 202.4 Effective date of registration.

The effective date of registration for claims received in the Copyright Office on or after January 3, 1991, and through December 31, 1991, with a short fee of \$10 is the date on which the application, deposit, and \$10 fee have all been received in the Copyright Office, provided, the claim is later determined to be acceptable for registration by the Register of Copyrights and a supplementary fee of \$10 is received in the Copyright Office. If the supplementary fee is not received promptly after notification of the short fee, the Copyright Office will initiate a proceeding to cancel the copyright registration. If the supplementary fee of \$10 is not received in the Copyright Office before the cancellation proceeding is completed, the cancellation will become final and will result in the loss of the effective date of registration. After cancellation, registration could be obtained only by submitting a new application, deposit, and filing fee.

[55 FR 50001, Dec. 4, 1990]

§ 202.5 Reconsideration Procedure for Refusals to Register.

(a) *General.* This section prescribes rules pertaining to procedures for administrative review of the Copyright Office's refusal to register a claim to copyright, a mask work, or a vessel hull design upon a finding by the Office that the application for registration does not satisfy the legal requirements of title 17 of the United States Code. If an applicant's initial claim is refused, the applicant is entitled to request that the initial refusal to register be reconsidered.

(b) *First reconsideration.* Upon receiving a written notification from the Registration Program explaining the reasons for a refusal to register, an applicant may request that the Registra-

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tion Program reconsider its initial decision to refuse registration, subject to the following requirements:

(1) An applicant must request in writing that the Registration Program reconsider its decision. A request for reconsideration must include the reasons the applicant believes registration was improperly refused, including any legal arguments in support of those reasons and any supplementary information. The Registration Program will base its decision on the applicant's written submissions.

(2) The fee set forth in § 201.3(d)(3)(i) of this chapter must accompany the first request for reconsideration.

(3) The first request for reconsideration and the applicable fee must be received by the Copyright Office no later than three months from the date that appears in the Registration Program written notice of its initial decision to refuse registration. When the ending date for the three-month time period falls on a weekend or a Federal holiday, the ending day of the three-month period shall be extended to the next Federal work day.

(4) If the Registration Program decides to register an applicant's work in response to the first request for reconsideration, it will notify the applicant in writing of the decision and the work will be registered. However, if the Registration Program again refuses to register the work, it will send the applicant a written notification stating the reasons for refusal within four months of the date on which the first request for reconsideration is received by the Registration Program. When the ending date for the four-month time period falls on a weekend or a Federal holiday, the ending day of the four-month period shall be extended to the next Federal work day. Failure by the Registration Program to send the written notification within the four-month period shall not result in registration of the applicant's work.

(c) *Second reconsideration.* Upon receiving written notification of the Registration Program's decision to refuse registration in response to the first request for reconsideration, an applicant may request that the Review Board reconsider the Registration Program's

refusal to register, subject to the following requirements:

(1) An applicant must request in writing that the Review Board reconsider the Registration Program's decision to refuse registration. The second request for reconsideration must include the reasons the applicant believes registration was improperly refused, including any legal arguments in support of those reasons and any supplementary information, and must address the reasons stated by the Registration Program for refusing registration upon first reconsideration. The Board will base its decision on the applicant's written submissions.

(2) The fee set forth in §201.3(d)(3)(ii) of this chapter must accompany the second request for reconsideration.

(3) The second request for reconsideration and the applicable fee must be received in the Copyright Office no later than three months from the date that appears in the Registration Program's written notice of its decision to refuse registration after the first request for reconsideration. When the ending date for the three-month time period falls on a weekend or a Federal holiday, the ending day of the three-month period shall be extended to the next Federal work day.

(4) If the Review Board decides to register an applicant's work in response to a second request for reconsideration, it will notify the applicant in writing of the decision and the work will be registered. If the Review Board upholds the refusal to register the work, it will send the applicant a written notification stating the reasons for refusal.

(d) *Submission of reconsiderations.* (1) All mail, including any that is hand delivered, should be addressed as follows: RECONSIDERATION, Copyright RAC Division, P.O. Box 71380, Washington, DC 20024-1380. If hand delivered by a commercial, non-government courier or messenger, a request for reconsideration must be delivered between 8:30 a.m. and 4 p.m. to: Congressional Courier Acceptance Site, located at Second and D Streets, NE., Washington, DC. If hand delivered by a private party, a request for reconsideration must be delivered between 8:30 a.m. and 5 p.m. to: Room 401 of the James Madison Memo-

rial Building, located at 101 Independence Avenue, SE., Washington, DC.

(2) The first page of the written request must contain the Copyright Office control number and clearly indicate either "FIRST RECONSIDERATION" or "SECOND RECONSIDERATION," as appropriate, on the subject line.

(e) *Suspension or waiver of time requirements.* For any particular request for reconsideration, the provisions relating to the time requirements for submitting a request under this section may be suspended or waived, in whole or in part, by the Register of Copyrights upon a showing of good cause. Such suspension or waiver shall apply only to the request at issue and shall not be relevant with respect to any other request for reconsideration from that applicant or any other applicant.

(f) *Composition of the Review Board.* The Review Board shall consist of three members; the first two members are the Register of Copyrights and the General Counsel or their respective designees. The third member will be designated by the Register.

(g) *Final agency action.* A decision by the Review Board in response to a second request for reconsideration constitutes final agency action.

[69 FR 77636, Dec. 28, 2004, as amended at 70 FR 7177, Feb. 11, 2005; 73 FR 37839, July 2, 2008]

§§ 202.6-202.9 [Reserved]

§ 202.10 Pictorial, graphic, and sculptural works.

(a) In order to be acceptable as a pictorial, graphic, or sculptural work, the work must embody some creative authorship in its delineation or form. The registrability of such a work is not affected by the intention of the author as to the use of the work or the number of copies reproduced. The availability of protection or grant of protection under the law for a utility or design patent will not affect the registrability of a claim in an original work of pictorial, graphic, or sculptural authorship.

(b) A claim to copyright cannot be registered in a print or label consisting solely of trademark subject matter and lacking copyrightable matter. While

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the Copyright Office will not investigate whether the matter has been or can be registered at the Patent and Trademark Office, it will register a properly filed copyright claim in a print or label that contains the requisite qualifications for copyright even though there is a trademark on it. However, registration of a claim to copyright does not give the claimant rights available by trademark registrations at the Patent and Trademark Office.

[46 FR 33249, June 29, 1981, as amended at 60 FR 15606, Mar. 24, 1995; 61 FR 5445, Feb. 12, 1996]

§ 202.11 Architectural works.

(a) *General.* This section prescribes rules pertaining to the registration of architectural works, as provided for in the amendment of title 17 of the United States Code by the Architectural Works Copyright Protection Act, title VII of the Judicial Improvements Act of 1990, Public Law 101-650.

(b) *Definitions.* (1) For the purposes of this section, the term *architectural work* has the same meaning as set forth in section 101 of title 17, as amended.

(2) The term *building* means humanly habitable structures that are intended to be both permanent and stationary, such as houses and office buildings, and other permanent and stationary structures designed for human occupancy, including but not limited to churches, museums, gazebos, and garden pavilions.

(c) *Registration*—(1) *Original design.* In general, an original design of a building embodied in any tangible medium of expression, including a building, architectural plans, or drawings, may be registered as an architectural work.

(2) *Registration limited to single architectural work.* For published and unpublished architectural works, a single application may cover only a single architectural work. A group of architectural works may not be registered on a single application form. For works such as tract housing, a single work is one house model, with all accompanying floor plan options, elevations, and styles that are applicable to that particular model.

(3) *Application form.* Registration should be sought on Form VA. Line one

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of the form should give the title of the building. The date of construction of the building, if any, should also be designated. If the building has not yet been constructed, the notation “not yet constructed” should be given following the title.

(4) *Separate registration for plans.* Where dual copyright claims exist in technical drawings and the architectural work depicted in the drawings, any claims with respect to the technical drawings and architectural work must be registered separately.

(5) *Publication.* Publication of an architectural work occurs when underlying plans or drawings of the building or other copies of the building design are distributed or made available to the general public by sale or other transfer of ownership, or by rental, lease, or lending. Construction of a building does not itself constitute publication for purposes of registration, unless multiple copies are constructed.

(d) *Works excluded.* The following structures, features, or works cannot be registered:

(1) *Structures other than buildings.* Structures other than buildings, such as bridges, cloverleaves, dams, walkways, tents, recreational vehicles, mobile homes, and boats.

(2) *Standard features.* Standard configurations of spaces, and individual standard features, such as windows, doors, and other staple building components.

(3) *Pre-December 1, 1990 building designs*—(i) *Published building designs.* The designs of buildings where the plans or drawings of the building were published before December 1, 1990, or the buildings were constructed or otherwise published before December 1, 1990.

(ii) *Unpublished building designs.* The designs of buildings that were unconstructed and embodied in unpublished plans or drawings on December 1, 1990, and remained unconstructed on December 31, 2002.

[57 FR 45310, Oct. 1, 1992, as amended at 68 FR 38630, June 30, 2003]

§ 202.12 Restored copyrights.

(a) *General.* This section prescribes rules pertaining to the registration of foreign copyright claims which have been restored to copyright protection

under section 104A of 17 U.S.C., as amended by the Uruguay Round Agreements Act, Public Law 103-465.

(b) *Definitions.* (1) For the purposes of this section, restored work and source country, have the definition given in the URAA and §201.33(b) of this chapter.

(2) *Descriptive statement for a work embodied solely in machine-readable format* is a separate written statement giving the title of the work, nature of the work (for example: computer program, database, videogame, etc.), plus a brief description of the contents or subject matter of the work.

(c) *Registration*—(1) *General.* Application, deposit and filing fee for registration of a claim in a restored work under section 104A, as amended, may be submitted to the Copyright Office on or after January 1, 1996. The submission may be a completely electronic submission, with all required elements transmitted to the Office in electronic form; or, the submission may be partially electronic with the application form and fee submitted electronically and the deposit materials sent in physically tangible format(s). If all elements are submitted in physically tangible form, *i.e.*, a completed, printed application form, physically tangible deposit copies/materials, and the appropriate filing fee in check, money order, or deposit account charge, all elements must be placed in the same package and sent to the following address: Library of Congress, Copyright Office, 101 Independence Avenue, SE., Washington, DC 20559-6000.

(2) *GATT form.* Application for registration for single works restored to copyright protection under URAA should be made on Form GATT. Form GATT may be submitted by completing Form GATT electronically, submitting the appropriate filing fee electronically, and sending the deposit copies and materials required by paragraph (c)(4) of this section by postal mail; or by printing Form GATT from the Office's website, sending it with the appropriate filing fee and deposit copies and materials required by paragraph (c)(4) of this section in the same package by mail; or by obtaining a Form GATT, completing it, and sending the appropriate filing fee and the deposit

copies and materials required by paragraph (c)(4) of this section in the same package by mail. A printed Form GATT may be obtained by calling or writing the Copyright Office Hotline at 202-707-9100. The GATT deposit materials required by paragraph (c)(4) of this section may be submitted for examination and registration electronically. Where, however, the Library of Congress requests a particular work or its identifying material for its collections, the required print deposit materials must be submitted.

(3) *Fee*—(i) *Amount.* The filing fee for registering a copyright claim in a restored work is prescribed in §201.3(c).

(ii) *Method of payment*—(A) *Checks, money orders, or bank drafts.* The Copyright Office will accept checks, money orders, or bank drafts made payable to the Register of Copyrights. Remittances must be redeemable without service or exchange fees through a United States institution, must be payable in United States dollars, and must be imprinted with American Banking Association routing numbers. In addition, international money orders, and postal money orders that are negotiable only at a post office are not acceptable. CURRENCY WILL NOT BE ACCEPTED.

(B) *Copyright Office Deposit Account.* The Copyright Office maintains a system of Deposit Accounts for the convenience of those who frequently use its services. The system allows an individual or firm to establish a Deposit Account in the Copyright Office and to make advance deposits into that account. Deposit Account holders can charge copyright fees against the balance in their accounts instead of sending separate remittances with each request for service. For information on Deposit Accounts please write: Register of Copyrights, Copyright Office, Library of Congress, Washington, DC 20559, and request a copy of Circular 5, "How to Open and Maintain a Deposit Account in the Copyright Office."

(C) *Credit cards.* For URAA registrations the Copyright Office will accept VISA, MasterCard, and American Express. Debit cards cannot be accepted for payment. With the registration application, an applicant using a credit

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card must submit a separate cover letter stating the name of the credit card, the credit card number, the expiration date of the credit card, the total amount authorized and a signature authorizing the Office to charge the fees to the account. To protect the security of the credit card number, the applicant must not write the credit card number on the registration application.

(4) *Deposit*—(i) *General*. The deposit for a work registered as a restored work under the amended section 104A, except for those works listed in paragraphs (c)(4) (ii) through (iv) of this section, should consist of one copy or phonorecord which best represents the copyrightable content of the restored work. In descending order of preference, the deposit should be:

(A) The work as first published;

(B) A reprint or re-release of the work as first published;

(C) A photocopy or identical reproduction of the work as first published; or

(D) A revised version which includes a substantial amount of the copyrightable content of the restored work with an indication in writing of the percentage of the restored work appearing in the revision.

(ii) *Previously registered works*. No deposit is needed for works previously registered in the Copyright Office.

(iii) *Works embodied solely in machine-readable format*. For works embodied only in machine-readable formats, the deposit requirements are as follows:

(A) One machine-readable copy and a descriptive statement of the work; or

(B) Representative excerpts of the work, such as printouts; or, if the claim extends to audiovisual elements in the work, a videotape of what appears on the screen.

(iv) *Pictorial, graphic and sculptural works*. With the exception of 3-dimensional works of art, the general deposit preferences specified under paragraph (c)(4)(i) of this section shall govern. For 3-dimensional works of art, the preferred deposit is one or more photographs of the work, preferably in color.

(v) *Special relief*. An applicant who is unable to submit any of the preferred deposits may seek an alternative deposit under special relief (37 CFR

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202.20(d)). In such a case, the applicant should indicate in writing why the deposit preferences cannot be met, and submit alternative identifying materials clearly showing some portion of the copyrightable contents of the restored work which is the subject of registration.

(vi) *Motion pictures*. If the deposit is a film print (16 or 35 mm), the applicant should contact the Performing Arts Division of the Registration Program for delivery instructions. The telephone number is: (202) 707–6040; the telefax number is: (202) 707–1236.

(d) *Works excluded*. Works which are not copyrightable subject matter under title 17 of the U.S. Code, other than sound recordings fixed before February 15, 1972, shall not be registered as restored copyrights.

[60 FR 50422, Sept. 29, 1995, as amended at 64 FR 12902, Mar. 16, 1999; 64 FR 29522, June 1, 1999; 71 FR 31092, June 1, 2006; 72 FR 36888, July 6, 2007; 73 FR 37839, July 2, 2008]

§§ 202.13–202.15 [Reserved]

§ 202.16 Preregistration of copyrights.

(a) *General*. This section prescribes rules pertaining to the preregistration of copyright claims in works eligible for preregistration under Section 408(f) of 17 U.S.C.

(b) *Definitions*. For the purposes of this section—

(1) A work is in a class of works that the Register of Copyrights has determined has had a history of infringement prior to authorized commercial release if it falls within one of the following classes of works:

(i) Motion pictures;

(ii) Sound recordings;

(iii) Musical compositions;

(iv) Literary works being prepared for publication in book form;

(v) Computer programs (including videogames); or

(vi) Advertising or marketing photographs.

(2) A work is being prepared for commercial distribution if:

(i) The claimant, in a statement certified by the authorized preregistering party, has a reasonable expectation that the work will be commercially distributed to the public; and

(ii) Preparation of the work has commenced and at least some portion of the work has been fixed in a tangible medium of expression, as follows:

(A) For a motion picture, filming of the motion picture must have commenced;

(B) For a sound recording, recording of the sounds must have commenced;

(C) For a musical composition, at least some of the musical composition must have been fixed either in the form of musical notation or in a copy or phonorecord embodying a performance of some or all of the work;

(D) For a literary work being prepared for publication in book form, the actual writing of the text of the work must have commenced;

(E) For a computer program, at least some of the computer code (either source code or object code) must have been fixed; and

(F) For an advertising or marketing photograph, the photograph (or, in the case of a group of photographs intended for simultaneous publication, at least one of the photographs) must have been taken.

(3) A work *eligible for preregistration* is a work that is:

(i) Unpublished;

(ii) Being prepared for commercial distribution; and

(iii) In a class of works that the Register of Copyrights has determined has had a history of infringement prior to authorized commercial release.

(c) *Preregistration—(1) General.* A work eligible for preregistration may be preregistered by submitting an application and fee to the Copyright Office pursuant to the requirements set forth in this section.

(2) *Works excluded.* Works that are not copyrightable subject matter under title 17 of the U.S. Code may not be preregistered in the Copyright Office.

(3) *Application form.* An application for preregistration is made using Electronic Form PRE. The application must be submitted electronically on the Copyright Office website at: <http://www.copyright.gov>.

(4) *Preregistration as a single work.* For the purpose of preregistration on a single application and upon payment of a single preregistration fee, all copyrightable elements that are otherwise

recognizable as self-contained works, that are to be included and first published in a single unit of publication, and in which the copyright claimant is the same, shall be considered a single work eligible for preregistration.

(5) *Fee—(i) Amount.* The filing fee for preregistration is prescribed in §201.3(c).

(ii) *Method of payment.* (A) Copyright Office deposit account. The Copyright Office maintains a system of Deposit Accounts for the convenience of those who frequently use its services and for those who file applications electronically. The system allows an individual or firm to establish a Deposit Account in the Copyright Office and to make advance deposits in that account. Deposit Account holders can charge preregistration fees against the balance in their accounts instead of using credit cards for each request of service. For information on Deposit Accounts, please download a copy of Circular 5, "How to Open and Maintain a Deposit Account in the Copyright Office," or write the Register of Copyrights, Copyright Office, Library of Congress, Washington, D.C. 20559.

(B) Credit cards, debit cards and electronic funds transfer. The online preregistration filing system will provide options for payment by means of credit or debit cards and by means of electronic funds transfers. Applicants will be redirected to the Department of Treasury's Pay.gov website to make payments with credit or debit cards, or directly from their bank accounts by means of ACH debit transactions.

(C) No refunds. The preregistration filing fee is not refundable.

(6) *Description.* No deposit of the work being preregistered should be submitted with an application for preregistration. The preregistration applicant should submit a detailed description, of not more than 2,000 characters (approximately 330 words), of the work as part of the application. The description should be based on information available at the time of the application sufficient to reasonably identify the work. Generally, the Copyright Office will not review descriptions for adequacy, but in an action for infringement of a preregistered work, the court may evaluate the adequacy

of the description to determine whether the preregistration actually describes the work that is alleged to be infringed, taking into account the information available to the applicant at the time of preregistration and taking into account the legitimate interest of the applicant in protecting confidential information.

(i) For motion pictures, such a description should include the following information to the extent known at the time of filing: the subject matter, a summary or outline, the director, the primary actors, the principal location of filming, and any other information that would assist in identifying the particular work being preregistered.

(ii) For sound recordings, the identifying description should include the following information to the extent known at the time of filing: the subject matter of the work or works recorded, the performer or performing group, the genre of the work recorded (e.g., classical, pop, musical comedy, soft rock, heavy metal, gospel, rap, hip-hop, blues, jazz), the titles of the musical compositions being recorded, the principal recording location, the composer(s) of the recorded musical compositions embodied on the sound recording, and any other information that would assist in identifying the particular work being preregistered.

(iii) For musical compositions, the identifying description should include the following information to the extent known at the time of filing: the subject matter of the lyrics, if any, the genre of the work (for example, classical, pop, musical comedy, soft rock, heavy metal, gospel, rap, hip-hop, blues, jazz), the performer, principal recording location, record label, motion picture, or other information relating to any sound recordings or motion pictures that are being prepared for commercial distribution and will include the musical composition, and any other detail or characteristic that may assist in identifying the particular musical composition.

(iv) For literary works in book form, the identifying description should include to the extent known at the time of filing: the genre of the book, e.g., biography, novel, history, etc., and should include a brief summary of the

work including, the subject matter (e.g., a biography of President Bush, a history of the war in Iraq, a fantasy novel); a description (where applicable) of the plot, primary characters, events, or other key elements of the content of the work; and any other salient characteristics of the book, e.g., whether it is a later edition or revision of a previous work, as well as any other detail which may assist in identifying the literary work in book form.

(v) For computer programs (including videogames), the identifying description should include to the extent known at the time of filing, the nature, purpose and function of the computer program, including the programming language in which it is written, any particular organization or structure in which the program has been created; the form in which it is expected to be published, e.g. as an online-only product; whether there have been previous versions (and identification of such previous versions); the identities of persons involved in the creation of the computer program; and, if the work is a videogame, also describe the subject matter of the videogame and the overall object, goal or purpose of the game, its characters, if any, and the general setting and surrounding found in the game.

(vi) For advertising or marketing photographs, the description should include the subject matter depicted in the photograph or photographs, including information such as the particular product, event, public figure, or other item or occurrence which the photograph is intended to advertise or market. To the extent possible and applicable, the description for photographs should give additional details which will assist in identifying the particular photographs, such as the party for whom such advertising photographs are taken; the approximate time periods during which the photographs are taken; the approximate number of photos which may be included in the grouping; any events associated with the photographs; and the location and physical setting or surrounding depicted in the photographs. The description may also explain the general presentation, e.g., the lighting, background scenery, positioning of elements of the

subject matter as it is seen in the photographs, and should provide any locations and events, if applicable, associated with the photographs.

(7) *Review of preregistration information.* The Copyright Office will conduct a limited review of applications for preregistration, in order to ascertain whether the application describes a work that is in a class of works that the Register of Copyrights has determined has had a history of infringement prior to authorized commercial release. However, a work will not be preregistered unless an applicant has provided all of the information requested on the application and has certified that all of the information provided on the application is correct to the best of the applicant's knowledge.

(8) *Certification.* The person submitting an application for preregistration must certify on the application that he or she is the author, copyright claimant, or owner of exclusive rights, or the authorized agent of the author, copyright claimant, or owner of exclusive rights, of the work submitted for this preregistration; that the information given in this application is correct to the best of his or her knowledge; that the work is being prepared for commercial distribution; and that he or she has a reasonable expectation that the work will be commercially distributed to the public.

(9) *Effective date of preregistration.* The effective date of a preregistration is the day on which an application and fee for preregistration of a work, which the Copyright Office later notifies the claimant has been preregistered or which a court of competent jurisdiction has concluded was acceptable for preregistration, have been received in the Copyright Office.

(10) *Notification of preregistration.* Upon completion of the preregistration, the Copyright Office will provide the claimant official notification by email of the preregistration.

(11) *Certification of preregistration.* A certified copy of the official notification may be obtained in physical form from the Records Research and Certification Section of the Information and Records Division at the address stated in § 201.1(a)(3) of this chapter.

(12) *Public record of preregistration.* The preregistration record will also be available to the public on the Copyright Office website, <http://www.copyright.gov>.

(13) *Effect of preregistration.* Preregistration of a work offers certain advantages to a copyright owner pursuant to 17 U.S.C. 408(f), 411 and 412. However, preregistration of a work does not constitute prima facie evidence of the validity of the copyright or of the facts stated in the application for preregistration or in the preregistration record. The fact that a work has been preregistered does not create any presumption that the Copyright Office will register the work upon submission of an application for registration.

(14) *Petition for recognition of a new class of works.* At any time an interested party may petition the Register of Copyrights for a determination as to whether a particular class of works has had a history of copyright infringement prior to authorized release that would justify inclusion of that class of works among the classes of works eligible for preregistration.

[70 FR 61906, Oct. 27, 2005, as amended at 71 FR 31092, June 1, 2006; 73 FR 37839, July 2, 2008]

§ 202.17 Renewals

(a) *General.* (1) This section concerns renewal for copyrights originally secured from January 1, 1964, through December 31, 1977, either by publication with the required copyright notice or by registration as an unpublished work. Renewal registration for these works is optional. As provided in Pub. L. No. 102-307, 106 Stat. 264, enacted June 26, 1992, renewal registration made during the last year of the original 28-year term of copyright differs in legal effect from renewal registration made during the 67-year extended renewal term. In the latter instance, the copyright is renewed automatically at the expiration of the original 28-year term. In the former instance, renewal by registration during the last year of the original 28-year term vested the renewal copyright in the statutory claimant living on the date of registration.

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(2) Works for which copyright was secured before 1964 are governed by the provisions of 17 U.S.C. 304(a) in effect prior to the 1992 date of enactment of Pub. L. No. 102-307. The copyrights in such works could have been renewed by registration only within the last calendar year of the original 28-year term of copyright protection. If renewal registration was not made during that period of time, copyright protection was lost when the original term of copyright expired and cannot be regained.

(3) Works restored to copyright by the Uruguay Round Agreements Act are governed in their copyright term of protection by Pub. L. No. 103-465, 108 Stat. 4809, 4976 (December 8, 1994). Under 17 U.S.C. 104A(a)(1)(A) and (B), as amended, any work in which copyright is restored subsists for the remainder of the term of copyright that the work would have been otherwise granted in the United States. Such term includes the remainder of any applicable renewal term.

(4) Automatic restoration of copyright in certain foreign works that were in the public domain in the United States may have occurred under the Uruguay Round Agreements Act and may be protected by copyright or neighboring rights in their "source country," as defined at 17 U.S.C. 104A(h)(8).

(b) *Definitions.* (1) For purposes of this section, the terms assignee and successor, as they pertain to 17 U.S.C. 304(a)(3)(A)(ii), refer to a party which has acquired the renewal copyright in a work by assignment or by other means of legal succession from the statutory claimant [as that claimant is defined in 17 U.S.C. 304(a)(1)(B) and (C)] in whom the renewal copyright vested but in whose name no renewal registration was previously made.

(2) For purposes of this section, a work has been copyrighted when it has been published with a proper copyright notice or, in the case of an unpublished work, when it has been registered for copyright.

(3) For purposes of this section, the term posthumous work means a work that was unpublished on the date of the death of the author and with respect to which no copyright assignment or other contract for exploitation of the

work occurred during the author's lifetime.

(4) For purposes of this section, the term statutory claimant means:

(i) A party who was entitled to claim copyright for the renewal term at the time renewal registration was made either as a proprietary claimant, 17 U.S.C. 304(a)(2)(A)(i), or as a personal claimant, 17 U.S.C. 304(a)(2)(B)(i), if registration was made during the original term of copyright; or

(ii) If the original copyright term expired, a party who was entitled to claim copyright for the renewal term as of the last day of the original term of copyright as either a proprietary or a personal claimant, 17 U.S.C. 304(a)(2)(A)(ii) and (a)(2)(B)(ii).

(5) For purposes of this section, the term to vest means to give a fixed, non-contingent right of present or future enjoyment of the renewal copyright in a work. If renewal registration was made during the 28th year of the original term of copyright, the renewal copyright vested in the party or parties entitled to claim such copyright at the time of registration as provided by 17 U.S.C. 304(a)(1)(B) and (C). Although the vested right may have been determined by registration during the 28th year of the original term, the exercise of such right did not commence until the beginning of the renewal term, as provided in 17 U.S.C. 304(a)(2). If renewal registration was not made during the 28th year, the renewal copyright automatically vested upon the beginning of the renewal term in the party or parties entitled to claim such copyright on the last day of the original term as provided by 17 U.S.C. 304(a)(2)(A)(ii) and (B)(ii).

(c) *Time limits: original term and renewal term registration.* (1) Under 17 U.S.C. 304(a), prior to its amendment of June 26, 1992, a registration for the original term of copyright must have been made during the 28 years of that original term, and a renewal registration must also have been made during the 28th year of that term. Pub. L. No. 102-307, 106 Stat. 264 (June 26, 1992) amended section 304(a) for works originally copyrighted from January 1, 1964,

through December 31, 1977, and provided for optional original-term registration and optional renewal registration. 17 U.S.C. 304(a)(2), (a)(3) and 409(11). For such works, claims to renewal copyright could have been registered during the last year of the original term but such registration was not required in order to enjoy statutory protection during the renewal term. 17 U.S.C. 304(a)(3)(B).

(2) A renewal registration can be made at any time during the renewal term. 17 U.S.C. 304(a)(3)(A)(ii). If no original-term registration was made, renewal registration remains possible; but the Register may request information, under 17 U.S.C. 409(11), regarding the original term of copyright. Such information must demonstrate that the work complies with all requirements of the 1909 Act with respect to the existence, ownership, or duration of the copyright for the original term of the work. The Form RE/Addendum is used to provide this information.

(3) Renewal registration is currently available for works copyrighted from January 1, 1964, through December 31, 1977. Under the provisions of 17 U.S.C. 304(a)(3)(A)(ii), renewal registration may be made any time during the 67-year renewal term for such works according to the procedure indicated in paragraph (h) of this section. Such renewal registration is optional and is not a condition of the subsistence of the copyright for the 67-year renewal term. 17 U.S.C. 304(a)(3)(B). In the case of such works for which no registration was made during the original term of copyright, renewal registration may be made by submission of a Form RE/Addendum. The Addendum, an adjunct to the renewal form, concerns the facts of first publication for a work and assures the Copyright Office that the work as it existed in its original term of copyright was in compliance with the 1909 copyright law, 17 U.S.C. 1, et. seq. (1909 Act, in effect through December 31, 1977), whose provisions govern such works.

(d) *Benefits of 28th-year renewal registration.* Prior to January 1, 2006, renewal registration was available during the 28th year of the original term of copyright for works copyrighted from January 1, 1964, through December 31,

1977. As provided in Pub. L. No. 102-307, 106 Stat. 264, registration made during the 28th year of the original term of copyright provided the following benefits to the registrant:

(1) The certificate of registration constituted prima facie evidence as to the validity of the copyright during its renewal term and of the facts stated in the certificate. 17 U.S.C. 304(a)(4)(B).

(2) A derivative work prepared under the authority of a grant of a transfer or license of copyright in a work made before the expiration of the original term of copyright could not continue to be used under the terms of the grant during the renewal term without the authority of the owner of the renewal copyright. 17 U.S.C. 304(a)(4)(A).

(3) The renewal copyright vested upon the beginning of the renewal term in the party entitled to claim the renewal of copyright at the time the application was made as provided under 17 U.S.C. 304(a)(2)(A)(i) and (B)(i).

(e) *Statutory parties entitled to claim copyright for the renewal term under Section 304(a).* (1) Renewal claims must be registered in the name of the party or parties entitled to claim copyright for the renewal term as provided in paragraphs (e)(2) through (4) of this section and as specified in 17 U.S.C. 304(a). If a work was a new version of a previously published or registered work, renewal registration may be claimed only in the new matter.

(2) If the renewal claim was submitted during the last, *i.e.*, the 28th, year of the original term of copyright, the claim had to be registered in the name[s] of the statutory claimant[s] entitled to claim the renewal copyright on the date on which the claim was submitted to the Copyright Office. If the renewal claim is submitted during the sixty-seven year extended renewal term, the renewal claim can be registered only in the name[s] of the statutory claimant[s] entitled to claim the renewal on the last day (December 31) of the original term of copyright. These eligible renewal claimants are listed below:

(i) The person who, on the applicable day, was the copyright proprietor is the appropriate renewal claimant in

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any posthumous work or any periodical, encyclopedia, or other composite work upon which the copyright was originally secured by the proprietor;

(ii) The person who, on the applicable day, was the copyright proprietor is the appropriate claimant in any work copyrighted by a corporate body (otherwise than as assignees or licensees of the individual author), or by an employer for whom such work was made for hire;

(iii) For any other copyrighted work, including a contribution by an individual author to a periodical or to a cyclopedic or other composite work, the appropriate claimants, in descending order of eligibility, are the person who, on the applicable day, was:

(A) The author(s) of the work, if still living;

(B) The widow(er) and/or child(ren) of the author, if the author was deceased on the applicable day;

(C) The author's executor(s), if still acting in that capacity on the applicable day, provided the author had a will and neither the author, nor any widow(er) or child of the author is still living; or

(D) The author's next of kin, in the absence of a will and if neither the author nor any widow, widower or child of the author is living.

(3) The provisions of paragraphs (e)(1) and (2) of this section are subject to the following qualification: Notwithstanding the definition of "posthumous work" in paragraph (b)(4) of this section, a renewal claim may be registered in the name of the proprietor of a work, as well as in the name of the appropriate claimant under paragraph (e)(2)(iii) of this section, in any case in which a contract for exploitation of the work but no copyright assignment in the work has occurred during the author's lifetime. However, registration by the Copyright Office in this case should not be interpreted as evidencing the validity of either claim.

(4) The provisions of paragraphs (e)(2)(iii)(C) and (D) of this section are subject to the following qualifications:

(i) In any case where:

(A) The author has left a will which names no executor;

(B) The author has left a will which names an executor who cannot or will not serve in that capacity; or

(C) The author has left a will which names an executor who has been discharged upon settlement of the estate, removed before the estate has been completely administered, or is deceased at the time of the renewal registration submission, the renewal claim may be registered either in the name of an administrator *cum testamento annexo* (administrator c.t.a.) or an administrator *de bonis non cum testamento annexo* (administrator d.b.n.c.t.a.) so appointed by a court of competent jurisdiction.

(ii) In any case described in paragraph (e) of this section, except in the case where the author has left a will without naming an executor and a court-appointed administrator c.t.a. or administrator d.b.n.c.t.a. is in existence at the time of renewal registration, the renewal claim also may be registered in the name of the author's next of kin. However, registration by the Copyright Office of conflicting renewal claims in such a case should not be interpreted as evidencing the validity of either claim.

(f) *Successors/assignees entitled to file an application for the renewal term under Section 304(a)*. The provisions of paragraph (e) of this section are subject to the following qualifications:

(1) Where no renewal registration has been made in the name of a person or entity identified in paragraphs (e)(2)(i), (ii) and (iii) of this section, a renewal application may be filed at any time during the renewal term by any successor or assignee of such person or entity.

(2) In such cases described in paragraph (f)(1)(i) of this section, the renewal application must identify the party in whom the renewal copyright vested; must indicate the basis upon which copyright for the renewal term vested in that party; must identify the party who is the successor or assignee of the statutory claimant under 17 U.S.C. 304(a)(3); and, must give the manner by which such successor/assignee secured the renewal copyright.

(3) When such a claim has been filed by a successor or assignee in the name of the statutory claimant as described

in paragraph (e)(2)(i), (ii) and (iii) of this section, generally no subsequent claims may be filed by other successors or assignees whose rights are derived from the same statutory claimant. If a public record of renewal ownership is sought by other successors or assignees of the same statutory claimant, the document of transfer of the renewal copyright, either the renewal in its entirety or in part, may be recorded in the Copyright Office.

(4) Where a successor or assignee claims the renewal right from the same statutory claimant as does another successor or assignee, the Copyright Office may inquire concerning the situation and, if appropriate, may allow adverse renewal claims from the successors/assignees to be placed on the public record. In such cases, correspondence between the parties filing competing renewal claims and the Copyright Office will be, as always, maintained within Office records and subject to public inspection according to regulations found at 37 CFR 201.2.

(g) *Application for renewal registration for a work registered in its original 28-year term.* (1) Each application for renewal registration shall be submitted on Form RE. All forms are available free of charge via the Internet by accessing the Copyright Office homepage at <http://www.copyright.gov>. Copies of Form RE are also available free upon request to the Copyright Information Section, United States Copyright Office, Library of Congress, 101 Independence Avenue, Washington, DC 20559-6000.

(2) (i) An application for renewal registration may be submitted by any eligible statutory renewal claimant as specified in paragraph (e) of this section or by the duly authorized agent of such claimant, or by the successor or assignee of such claimant as provided under paragraph (f) of this section or by the duly authorized agent of such successor or assignee.

(ii) An application for renewal registration shall be accompanied by the required fee as set forth in 37 CFR 201.3. The application shall contain the information required by the form and its accompanying instructions, and shall include a certification. The certification shall consist of:

(A) A designation of whether the applicant is the renewal claimant, or a successor or assignee, or the duly authorized agent of such claimant or of such successor or assignee (whose identity shall also be given);

(B) The handwritten signature of such claimant, successor or assignee, or agent, accompanied by the type-written or printed name of that person;

(C) A declaration that the statements made in the application are correct to the best of that person's knowledge; and

(D) The date of certification.

(3) Once a renewal registration has been made, the Copyright Office will not accept another application for renewal registration on behalf of the same renewal claimant.

(h) *Renewal with addendum registration for an unregistered work—(1) General.* For published works copyrighted from January 1, 1964, through December 31, 1977, where no registration was made during the original term of copyright and where renewal registration is sought during the 67-year renewal term, the Form RE/Addendum must be used to provide information concerning the original term of copyright. The Form RE/Addendum requires a separate fee and the deposit of one copy or phonorecord of the work as first published (or identifying material in lieu of a copy or phonorecord). The effective date of registration for a renewal claim submitted on a Form RE/Addendum is the date the Copyright Office receives an acceptable completed application, the required fees, and an acceptable deposit for the work.

(2) *Time Limits.* A renewal claim accompanied by an Addendum to Form RE may be filed at any time during the 67-year renewal term.

(3) *Content.* The Form RE/Addendum must contain the following information:

(i) The title of the work;

(ii) The name of the author(s);

(iii) The date of first publication of the work;

(iv) The nation of first publication of the work;

(v) The citizenship of the author(s) on the date of first publication of the work;

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(vi) The domicile of the author(s) on the date of first publication of the work;

(vii) An averment that, at the time of first publication, and thereafter until March 1, 1989 [effective date of the Berne Implementation Act of 1988], all the copies or phonorecords of the work, including reprints of the work, published, *i.e.*, publicly distributed in the United States or elsewhere, under the authority of the author or other copyright proprietor, bore the copyright notice required by the Copyright Act of 1909 and that United States copyright subsists in the work;

(viii) For works of United States origin which were subject to the manufacturing provisions of section 16 of the Copyright Act of 1909 as it existed at the time the work was published, the Form RE/Addendum must also contain information about the country of manufacture and the manufacturing processes; and

(ix) The handwritten signature of the renewal claimant or successor or assignee, or the duly authorized agent of the claimant or of the successor or assignee. The signature shall be accompanied by the printed or typewritten name of the person signing the Addendum and by the date of the signature; and shall be immediately preceded by a declaration that the statements made in the application are correct to the best of that person's knowledge.

(4) *Fees.* Form RE and Form RE/Addendum must be accompanied by the required fee for each form as required in 37 CFR 201.3.

(5) *Deposit requirement.* One copy or phonorecord or identifying material of the work as first published in accordance with the deposit requirements set out in 37 CFR 202.20 and 202.21 is required.

(6) *Waiver of the deposit requirement.* Where the renewal applicant asserts that it is either impossible or otherwise an undue hardship to satisfy the deposit requirements of 37 CFR 202.20 and 202.21, the Copyright Office, at its discretion, may, upon receipt of an acceptable explanation of the inability to submit such copy or identifying material, permit the deposit of the following in descending order of preference. In every case, however, proof of

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the copyright notice showing the content and location of the notice as it appeared on copies or phonorecords of the work as first published must be included.

(i) A reproduction of the entire work as first published (e.g., photocopy, videotape, audiotape, CD-ROM, DVD are examples of physical media which may hold reproductions of a work as first published). If the work is a contribution to a periodical, a reproduction of only the contribution (including the relevant copyright notice) will suffice.

(ii) A reprint of the work (e.g., a later edition, a later release of a phonorecord, or the like). The reprint must show the copyright notice as it appeared in the same location within the first published copy of the work as well as the exact content of the copyright notice appearing in the first published edition. If the copyrightable content of the reprint differs from that of the first published edition, an explanation of the differences between the two editions is required.

(iii) Identifying material including a reproduction of the greatest feasible portion of the copyrightable content of a work including a photocopy or photograph of the title page, title screen, record label or the like, as first published, and a photocopy or photograph showing the copyright notice content and location as first published. The Copyright Office may request deposit of additional material if the initial submission is inadequate for examination purposes.

[72 FR 61803, Nov. 1, 2007, as amended at 73 FR 37839, July 2, 2008]

§ 202.18 [Reserved]

§ 202.19 Deposit of published copies or phonorecords for the Library of Congress.

(a) *General.* This section prescribes rules pertaining to the deposit of copies and phonorecords of published works for the Library of Congress under section 407 of title 17 of the United States Code, as amended by Pub. L. 94-553. The provisions of this section are not applicable to the deposit of copies and phonorecords for purposes of copyright registration under section 408 of title 17, except as

expressly adopted in §202.20 of these regulations.

(b) *Definitions.* For the purposes of this section:

(1)(i) The *best edition* of a work is the edition, published in the United States at any time before the date of deposit, that the Library of Congress determines to be most suitable for its purposes. The “best edition” requirement is described in detail at Appendix B to this part.

(ii) Criteria for selection of the “best edition” from among two or more published editions of the same version of the same work are set forth in the statement entitled “Best Edition of Published Copyrighted Works for the Collections of the Library of Congress” (hereafter referred to as the “Best Edition Statement”) in effect at the time of deposit.

(iii) Where no specific criteria for the selection of the “best edition” are established in the Best Edition Statement, that edition which, in the judgment of the Library of Congress, represents the highest quality for its purposes shall be considered the “best edition.” In such cases:

(A) When the Copyright Office is aware that two or more editions of a work have been published it will consult with other appropriate officials of the Library of Congress to obtain instructions as to the “best edition” and (except in cases for which special relief is granted) will require deposit of that edition; and

(B) When a potential depositor is uncertain which of two or more published editions comprises the “best edition”, inquiry should be made to the Copyright Acquisitions Division.

(iv) Where differences between two or more “editions” of a work represent variations in copyrightable content, each edition is considered a separate version, and hence a different work, for the purpose of this section, and criteria of “best edition” based on such differences do not apply.

(2) A *complete* copy includes all elements comprising the unit of publication of the best edition of the work, including elements that, if considered separately, would not be copyrightable subject matter or would otherwise be exempt from mandatory deposit re-

quirements under paragraph (c) of this section. In the case of sound recordings, a “complete” phonorecord includes the phonorecord, together with any printed or other visually perceptible material published with such phonorecord (such as textual or pictorial matter appearing on record sleeves or album covers, or embodied in leaflets or booklets included in a sleeve, album, or other container). In the case of a musical composition published in copies only, or in both copies and phonorecords:

(i) If the only publication of copies in the United States took place by the rental, lease, or lending of a full score and parts, a full score is a “complete” copy; and

(ii) If the only publication of copies in the United States took place by the rental, lease, or lending of a conductor’s score and parts, a conductor’s score is a “complete” copy.

In the case of a motion picture, a copy is “complete” if the reproduction of all of the visual and aural elements comprising the copyrightable subject matter in the work is clean, undamaged, undeteriorated, and free of splices, and if the copy itself and its physical housing are free of any defects that would interfere with the performance of the work or that would cause mechanical, visual, or audible defects or distortions. In the case of an electronic work published in the United States and available only online, a copy is “complete” if it includes all elements constituting the work in its published form, *i.e.*, the complete work as published, including metadata and formatting codes otherwise exempt from mandatory deposit.

(3) The terms *architectural works, copies, collective work, device, fixed, literary work, machine, motion picture, phonorecord, publication, sound recording, useful article*, and their variant forms, have the meanings given to them in 17 U.S.C. 101.

(4) For purposes of §202.19(c)(5) of this regulation, an *electronic serial* is an electronic work published in the United States and available only online, issued or intended to be issued on an established schedule in successive

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parts bearing numerical or chronological designations, without subsequent alterations, and intended to be continued indefinitely. This class includes periodicals, newspapers, annu- als, and the journals, proceedings, transactions, and other publications of societies.

(c) *Exemptions from deposit requirements.* The following categories of material are exempt from the deposit requirements of section 407(a) of title 17:

(1) Diagrams and models illustrating scientific or technical works or formulating scientific or technical information in linear or three-dimensional form, such as an architectural or engineering blueprint, plan, or design, a mechanical drawing, or an anatomical model.

(2) Greeting cards, picture postcards, and stationery.

(3) Lectures, sermons, speeches, and addresses when published individually and not as a collection of the works of one or more authors.

(4) Literary, dramatic, and musical works published only as embodied in phonorecords. This category does not exempt the owner of copyright, or of the exclusive right of publication, in a sound recording resulting from the fixation of such works in a phonorecord from the applicable deposit requirements for the sound recording.

(5) Electronic works published in the United States and available only online. This exemption includes electronic serials available only online only until such time as a demand is issued by the Copyright Office under the regulations set forth in §202.24 of these regulations. This exemption does not apply to works that are published in both online, electronic formats and in physical formats, which remain subject to the appropriate mandatory deposit requirements.

(6) Three-dimensional sculptural works, and any works published only as reproduced in or on jewelry, dolls, toys, games, plaques, floor coverings, wall- paper and similar commercial wall coverings, textiles and other fabrics, pack- aging material, or any useful article. Globes, relief models, and similar car- tographic representations of area are not within this category and are sub-

ject to the applicable deposit require- ments.

(7) Prints, labels, and other adver- tising matter, including catalogs, pub- lished in connection with the rental lease, lending, licensing, or sale of arti- cles of merchandise, works of author- ship, or services.

(8) Tests, and answer material for tests when published separately from other literary works.

(9) Works first published as indi- vidual contributions to collective works. This category does not exempt the owner of copyright, or of the exclu- sive right of publication, in the collec- tive work as a whole, from the applica- ble deposit requirements for the collec- tive work.

(10) Works first published outside the United States and later published in the United States without change in copyrightable content, if:

(i) Registration for the work was made under 17 U.S.C. 408 before the work was published in the United States; or

(ii) Registration for the work was made under 17 U.S.C. 408 after the work was published in the United States but before a demand for deposit is made under 17 U.S.C. 407(d).

(11) Works published only as em- bodied in a soundtrack that is an inte- gral part of a motion picture. This cat- egory does not exempt the owner of copyright, or of the exclusive right of publication, in the motion picture, from the applicable deposit require- ments for the motion picture.

(12) Motion pictures that consist of television transmission programs and that have been published, if at all, only by reason of a license or other grant to a nonprofit institution of the right to make a fixation of such programs di- rectly from a transmission to the pub- lic, with or without the right to make further uses of such fixations.

(d) *Nature of required deposit.* (1) Sub- ject to the provisions of paragraph (d)(2) of this section, the deposit re- quired to satisfy the provisions of sec- tion 407(a) of title 17 shall consist of:

(i) In the case of published works other than sound recordings, two com- plete copies of the best edition; and

(ii) In the case of published sound recordings, two complete phonorecords of the best edition.

(2) In the case of certain published works not exempt from deposit requirements under paragraph (c) of this section, the following special provisions shall apply:

(i) In the case of published three-dimensional cartographic representations of area, such as globes and relief models, the deposit of one complete copy of the best edition of the work will suffice in lieu of the two copies required by paragraph (d)(1) of this section.

(ii) In the case of published motion pictures, the deposit of one complete copy of the best edition of the work will suffice in lieu of the two copies required by paragraph (d)(1) of this section. Any deposit of a published motion picture must be accompanied by a separate description of its contents, such as a continuity, pressbook, or synopsis. The Library of Congress may, at its sole discretion, enter into an agreement permitting the return of copies of published motion pictures to the depositor under certain conditions and establishing certain rights and obligations of the Library with respect to such copies. In the event of termination of such an agreement by the Library it shall not be subject to reinstatement, nor shall the depositor or any successor in interest of the depositor be entitled to any similar or subsequent agreement with the Library, unless at the sole discretion of the Library it would be in the best interests of the Library to reinstate the agreement or enter into a new agreement.

(iii) In the case of any published work deposited in the form of a hologram, the deposit shall be accompanied by:

(A) Two sets of precise instructions for displaying the image fixed in the hologram; and

(B) Two sets of identifying material in compliance with §202.21 of these regulations and clearly showing the displayed image.

(iv) In any case where an individual author is the owner of copyright in a published pictorial or graphic work and (A) less than five copies of the work have been published, or (B) the work

has been published and sold or offered for sale in a limited edition consisting of no more than three hundred numbered copies, the deposit of one complete copy of the best edition of the work or, alternatively, the deposit of photographs or other identifying material in compliance with §202.21 of these regulations, will suffice in lieu of the two copies required by paragraph (d)(1) of this section.

(v) In the case of a musical composition published in copies only, or in both copies and phonorecords, if the only publication of copies in the United States took place by rental, lease, or lending, the deposit of one complete copy of the best edition will suffice in lieu of the two copies required by paragraph (d)(1) of this section.

(vi) In the case of published multimedia kits, that include literary works, audiovisual works, sound recordings, or any combination of such works, the deposit of one complete copy of the best edition will suffice in lieu of the two copies required by paragraph (d)(1) of this section.

(vii) In the case of published computer programs and published computerized information works, such as statistical compendia, serials, and reference works that are not copy-protected, the deposit of one complete copy of the best edition as specified in the current Library of Congress Best Edition Statement will suffice in lieu of the two copies required by paragraph (d)(1) of this section. If the works are copy-protected, two copies of the best edition are required.

(viii) In the case of published architectural works, the deposit shall consist of the most finished form of presentation drawings in the following descending order of preference:

(A) Original format, or best quality form of reproduction, including offset or silk screen printing;

(B) Xerographic or photographic copies on good quality paper;

(C) Positive photostat or photodirect positive;

(D) Blue line copies (diaz or ozalid process). If photographs are submitted, they should be 8×10 inches and should clearly show several exterior and interior views. The deposit should disclose

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the name(s) of the architect(s) and draftsperson(s) and the building site.

(e) *Special relief.* (1) In the case of any published work not exempt from deposit under paragraph (c) of this section, 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) Grant an exemption from the deposit requirements of section 407(a) of title 17 on an individual basis for single works or series or groups of works; or

(ii) Permit the deposit of one copy or phonorecord, or alternative identifying material, in lieu of the two copies or phonorecords required by paragraph (d)(1) of this section; or

(iii) Permit the deposit of incomplete copies or phonorecords, or copies or phonorecords other than those normally comprising the best edition; or

(iv) Permit the deposit of identifying material which does not comply with § 202.21 of these regulations.

(2) Any decision as to whether to grant such special relief, and the conditions under which special relief is to be granted, shall be made by the Register of Copyrights after consultation with other appropriate officials of the Library of Congress, and shall be based upon the acquisition policies of the Library of Congress then in force.

(3) Requests for special relief under this paragraph shall be made in writing to the Associate Register for Registration Program, shall be signed by or on behalf of the owner of copyright or of the exclusive right of publication in the work, and shall set forth specific reasons why the request should be granted.

(4) The Register of Copyrights may, after consultation with other appropriate officials of the Library of Congress, terminate any ongoing or continuous grant of special relief. Notice of termination shall be given in writing and shall be sent to the individual person or organization to whom the grant of special relief had been given, at the last address shown in the records of the Copyright Office. A notice of termination may be given at any time, but it shall state a specific date of termination that is at least 30 days later

than the date the notice is mailed. Termination shall not affect the validity of any deposit made earlier under the grant of special relief.

(f) *Submission and receipt of copies and phonorecords.* (1) All copies and phonorecords deposited in the Copyright Office will be considered to be deposited only in compliance with section 407 of title 17 unless they are accompanied by an application for registration of a claim to copyright in the work represented by the deposit, and either a registration fee or a deposit account number on the application. Copies or phonorecords deposited without such an accompanying application and either a fee or a deposit account notation will not be connected with or held for receipt of separate applications, and will not satisfy the deposit provisions of section 408 of title 17 or § 202.20 of these regulations.

(2) All copies and phonorecords deposited in the Copyright Office under section 407 of title 17, unless accompanied by written instructions to the contrary, will be considered to be deposited by the person or persons named in the copyright notice on the work.

(3) Upon request by the depositor made at the time of the deposit, the Copyright Office will issue a certificate of receipt for the deposit of copies or phonorecords of a work under this section. Certificates of receipt will be issued in response to requests made after the date of deposit only if the requesting party is identified in the records of the Copyright Office as having made the deposit. In either case, requests for a certificate of receipt must be in writing and accompanied by the appropriate fee, as required in § 201.3(c). A certificate of receipt will include identification of the depositor, the work deposited, and the nature and format of the copy or phonorecord deposited, together with the date of receipt.

[51 FR 6403, Feb. 24, 1986, as amended at 54 FR 42299, Oct. 16, 1989; 56 FR 47403, Sept. 19, 1991; 56 FR 59885, Nov. 26, 1991; 57 FR 45310, Oct. 1, 1992; 60 FR 34168, June 30, 1995; 64 FR 29522, June 1, 1999; 64 FR 62978, Nov. 18, 1999; 66 FR 34373, June 28, 2001; 73 FR 37839, July 2, 2008; 75 FR 3869, Jan. 25, 2010]

§ 202.20 Deposit of copies and phonorecords for copyright registration.

(a) *General.* This section prescribes rules pertaining to the deposit of copies and phonorecords of published and unpublished works for the purpose of copyright registration under section 408 of title 17 of the United States Code, as amended by Pub. L. 94-553. The provisions of this section are not applicable to the deposit of copies and phonorecords for the Library of Congress under section 407 of title 17, except as expressly adopted in §202.19 of these regulations.

(b) *Definitions.* For the purposes of this section:

(1) *The best edition* of a work has the meaning set forth in §202.19(b)(1). For purposes of this section, if a work is first published in both hard copy, *i.e.*, in a physically tangible format, and also in an electronic format, the current Library of Congress Best Edition Statement requirements pertaining to the hard copy format apply.

(2) A *complete* copy or phonorecord means the following:

(i) *Unpublished works.* Subject to the requirements of paragraph (b)(2)(vii) of this section, 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;

(ii) *Published works.* Subject to the requirements of paragraphs (b)(2) (iv) through (vii) of this section, 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, even where certain physically separable elements included in the applicable unit of publication are missing from the deposit, a copy or phonorecord will be considered “complete” for purposes of registration where:

(A) The copy or phonorecord deposited contains all parts of the work for which copyright registration is sought; and

(B) The removal of the missing elements did not physically damage the copy or phonorecord or garble its contents; and

(C) The work is exempt from the mandatory deposit requirements under section 407 of title 17 of the United States Code and §202.19(c) of these regulations, or the copy deposited consists entirely of a container, wrapper, or holder, such as an envelope, sleeve, jacket, slipcase, box, bag, folder, binder, or other receptacle acceptable for deposit under paragraph (c)(2) of this section;

(iii) *Works submitted for registration in digital formats.* A ‘complete’ electronically filed work is one which is embodied in a digital file which contains:

(A) if the work is unpublished, all authorship elements for which registration is sought; and

(B) if the work is published solely in an electronic format, all elements constituting the work in its published form, *i.e.*, the complete work as published, including metadata and authorship for which registration is not sought. Publication in an electronic only format requires submission of the digital file[s] in exact first-publication form and content.

(C) For works submitted electronically, any of the following file formats are acceptable for registration: PDF; TXT; WPD; DOC; TIF; SVG; JPG; XML; HTML; WAV; and MPEG family of formats, including MP3. This list of file formats is non-exhaustive and it may change, or be added to periodically. Changes will be noted in the list of acceptable formats on the Copyright Office website.

(D) Contact with the registration applicant may be necessary if the Copyright Office cannot access, view, or examine the content of any particular digital file that has been submitted for the registration of a work. For purposes of section 410(d) of 17 U.S.C., a deposit has not been received in the Copyright Office until a copy that can be reviewed by the Office is received.

(iv) *Contributions to collective works.* In the case of a published contribution to a collective work, a “complete” copy is one complete copy of the best edition of the entire collective work, the complete section containing the contribution if published in a newspaper, the contribution cut from the

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paper in which it appeared, or a photocopy of the contribution itself as it was published in the collective work.

(v) *Sound recordings*. In the case of published sound recordings, a “complete” phonorecord has the meaning set forth in § 202.19(b)(2) of these regulations;

(vi) *Musical scores*. In the case of a musical composition published in copies only, or in both copies and phonorecords:

(A) If the only publication of copies took place by the rental, lease, or lending of a full score and parts, a full score is a “complete” copy; and

(B) If the only publication of copies took place by the rental, lease, or lending of a conductor’s score and parts, a conductor’s score is a “complete” copy;

(vii) *Motion pictures*. In the case of a published or unpublished motion picture, a copy is “complete” if the reproduction of all of the visual and aural elements comprising the copyrightable subject matter in the work is clean, undamaged, undeteriorated, and free of splices, and if the copy itself and its physical housing are free of any defects that would interfere with the performance of the work or that would cause mechanical, visual, or audible defects or distortions.

(3) The terms *architectural works, copy, collective work, device, fixed, literary work, machine, motion picture, phonorecord, publication, sound recording, transmission program, and useful article*, and their variant forms, have the meanings given to them in 17 U.S.C. 101.

(4) A *secure test* is a nonmarketed test administered under supervision at specified centers on specific dates, all copies of which are accounted for and either destroyed or returned to restricted locked storage following each administration. For these purposes a test is not marketed if copies are not sold but it is distributed and used in such a manner that ownership and control of copies remain with the test sponsor or publisher.

(5) *Title 17* means title 17 of the United States Code, as amended by Pub. L. 94-553.

(6) For the purposes of determining the applicable deposit requirements under this § 202.20 only, the following

shall be considered as unpublished motion pictures: motion pictures that consist of television transmission programs and that have been published, if at all, only by reason of a license or other grant to a nonprofit institution of the right to make a fixation of such programs directly from a transmission to the public, with or without the right to make further uses of such fixations.

(c) *Nature of required deposit*. (1) Subject to the provisions of paragraph (c)(2) of this section, the deposit required to accompany an application for registration of claim to copyright under section 408 of title 17 shall consist of:

(i) In the case of unpublished works, one complete copy or phonorecord.

(ii) In the case of works first published in the United States before January 1, 1978, two complete copies or phonorecords of the work as first published.

(iii) In the case of works first published in the United States on or after January 1, 1978, two complete copies or phonorecords of the best edition.

(iv) In the case of works first published outside of the United States, one complete copy or phonorecord of the work either as first published or of the best edition. For purposes of this section, any works simultaneously first published within and outside of the United States shall be considered to be first published in the United States.

(2) In the case of certain works, the special provisions set forth in this clause shall apply. In any case where this clause specifies that one copy or phonorecord may be submitted, that copy or phonorecord shall represent the best edition, or the work as first published, as set forth in paragraph (c)(1) of this section.

(i) *General*. In the following cases the deposit of one complete copy or phonorecord will suffice in lieu of two copies or phonorecords:

(A) Published three-dimensional cartographic representations of area, such as globes and relief models;

(B) Published diagrams illustrating scientific or technical works or formulating scientific or technical information in linear or other two-dimensional

form, such as an architectural or engineering blueprint, or a mechanical drawing;

(C) Published greeting cards, picture postcards, and stationery;

(D) Lectures, sermons, speeches, and addresses published individually and not as a collection of the works of one or more authors;

(E) Musical compositions published in copies only, or in both copies and phonorecords, if the only publication of copies took place by rental, lease, or lending;

(F) Published multimedia kits or any part thereof;

(G) Works exempted from the requirement of depositing identifying material under paragraph (c)(2)(xi)(B)(5) of this section;

(H) Literary, dramatic, and musical works published only as embodied in phonorecords, although this category does not exempt the owner of copyright in a sound recording;

(I) Choreographic works, pantomimes, literary, dramatic, and musical works published only as embodied in motion pictures;

(J) Published works in the form of two-dimensional games, decals, fabric patches or emblems, calendars, instructions for needle work, needle work and craft kits; and

(K) Works reproduced on three-dimensional containers such as boxes, cases, and cartons.

(ii) *Motion pictures*. In the case of published or unpublished motion pictures, the deposit of one complete copy will suffice. The deposit of a copy or copies for any published or unpublished motion picture must be accompanied by a separate description of its contents, such as a continuity, pressbook, or synopsis. In any case where the deposit copy or copies required for registration of a motion picture cannot be viewed for examining purposes on equipment in the Registration Program of the Copyright Office, the description accompanying the deposit must comply with §202.21(h) of these regulations. The Library of Congress may, at its sole discretion, enter into an agreement permitting the return of copies of published motion pictures to the depositor under certain conditions and establishing certain rights and ob-

ligations of the Library of Congress with respect to such copies. In the event of termination of such an agreement by the Library, it shall not be subject to reinstatement, nor shall the depositor or any successor in interest of the depositor be entitled to any similar or subsequent agreement with the Library, unless at the sole discretion of the Library it would be in the best interests of the Library to reinstate the agreement or enter into a new agreement. In the case of unpublished motion pictures (including television transmission programs that have been fixed and transmitted to the public, but have not been published), the deposit of identifying material in compliance with §202.21 of these regulations may be made and will suffice in lieu of an actual copy. In the case of colorized versions of motion pictures made from pre-existing black and white motion pictures, in addition to the deposit of one complete copy of the colorized motion picture and the separate description of its contents as specified above, the deposit shall consist of one complete print of the black and white version of the motion picture from which the colorized version was prepared. If special relief from this requirement is requested and granted, the claimant shall make a good faith effort to deposit the best available, near-archival quality black and white print, as a condition of any grant of special relief.

(iii) *Holograms*. In the case of any work deposited in the form of a three-dimensional hologram, the copy or copies shall be accompanied by:

(A) Precise instructions for displaying the image fixed in the hologram; and

(B) Photographs or other identifying material complying with §202.21 of these regulations and clearly showing the displayed image.

The number of sets of instructions and identifying material shall be the same as the number of copies required. In the case of a work in the form of a two-dimensional hologram, the image of which is visible without the use of a machine or device, one actual copy of the work shall be deposited.

(iv) *Certain pictorial and graphic works*. In the case of any unpublished

pictorial or graphic work, deposit of identifying material in compliance with § 202.21 of these regulations may be made and will suffice in lieu of deposit of an actual copy. In the case of a published pictorial or graphic work, deposit of one complete copy, or of identifying material in compliance with § 202.21 of these regulations, may be made and will suffice in lieu of deposit of two actual copies where an individual author is the owner of copyright, and either:

(A) Less than five copies of the work have been published; or

(B) The work has been published and sold or offered for sale in a limited edition consisting of no more than 300 numbered copies.

(v) *Commercial prints and labels.* In the case of prints, labels, and other advertising matter, including catalogs, published in connection with the rental, lease, lending, licensing, or sale of articles of merchandise, works of authorship, or services, the deposit of one complete copy will suffice in lieu of two copies. Where the print or label is published in a larger work, such as a newspaper or other periodical, one copy of the entire page or pages upon which it appears may be submitted in lieu of the entire larger work. In the case of prints or labels physically inseparable from a three-dimensional object, identifying material complying with § 202.21 of these regulations must be submitted rather than an actual copy or copies except under the conditions of paragraph (c)(2)(xi)(B)(4) of this section.

(vi) *Tests.* In the case of tests, and answer material for tests, published separately from other literary works, the deposit of one complete copy will suffice in lieu of two copies. In the case of any secure test the Copyright Office will return the deposit to the applicant promptly after examination: Provided, That sufficient portions, description, or the like are retained so as to constitute a sufficient archival record of the deposit.

(vii) *Computer programs and databases embodied in machine-readable copies other than CD-ROM format.* In cases where a computer program, database, compilation, statistical compendium, or the like, if unpublished is fixed, or if published is published only in the form

of machine-readable copies (such as magnetic tape or disks, punched cards, semiconductor chip products, or the like) other than a CD-ROM format, from which the work cannot ordinarily be perceived except with the aid of a machine or device, the deposit shall consist of:

(A) For published or unpublished computer programs, one copy of identifying portions of the program, reproduced in a form visually perceptible without the aid of a machine or device, either on paper or in microform. For these purposes “identifying portions” shall mean one of the following:

(1) The first and last 25 pages or equivalent units of the source code if reproduced on paper, or at least the first and last 25 pages or equivalent units of the source code if reproduced in microform, together with the page or equivalent unit containing the copyright notice, if any. If the program is 50 pages or less, the required deposit will be the entire source code. In the case of revised versions of computer programs, if the revisions occur throughout the entire program, the deposit of the page containing the copyright notice and the first and last 25 pages of source code will suffice; if the revisions do not occur in the first and last 25 pages, the deposit should consist of the page containing the copyright notice and any 50 pages of source code representative of the revised material; or

(2) Where the program contains trade secret material, the page or equivalent unit containing the copyright notice, if any, plus one of the following: the first and last 25 pages or equivalent units of source code with portions of the source code containing trade secrets blocked-out, provided that the blocked-out portions are proportionately less than the material remaining, and the deposit reveals an appreciable amount of original computer code; or the first and last 10 pages or equivalent units of source code alone with no blocked-out portions; or the first and last 25 pages of object code, together with any 10 or more consecutive pages of source code with no blocked-out portions; or for programs consisting of, or less than, 50 pages or equivalent units, entire source code with the trade secret portions blocked-out, provided that the blocked-

out portions are proportionately less than the material remaining, and the remaining portion reveals an appreciable amount of original computer code. If the copyright claim is in a revision not contained in the first and last 25 pages, the deposit shall consist of either 20 pages of source code representative of the revised material with no blocked-out portions, or any 50 pages of source code representative of the revised material with portions of the source code containing trade secrets blocked-out, provided that the blocked-out portions are proportionately less than the material remaining and the deposit reveals an appreciable amount of original computer code. Whatever method is used to block out trade secret material, at least an appreciable amount of original computer code must remain visible.

(B) Where registration of a program containing trade secrets is made on the basis of an object code deposit the Copyright Office will make registration under its rule of doubt and warn that no determination has been made concerning the existence of copyrightable authorship.

(C) Where the application to claim copyright in a computer program includes a specific claim in related computer screen displays, the deposit, in addition to the identifying portions specified in paragraph (c)(2)(vii)(A) of this section, shall consist of:

(1) Visual reproductions of the copyrightable expression in the form of printouts, photographs, or drawings no smaller than 3×3 inches and no larger than 9×12 inches; or

(2) If the authorship in the work is predominantly audiovisual, a one-half inch VHS format videotape reproducing the copyrightable expression, except that printouts, photographs, or drawings no smaller than 3×3 inches and no larger than 9×12 inches must be deposited in lieu of videotape where the computer screen material simply constitutes a demonstration of the functioning of the computer program.

(D) For published and unpublished automated databases, compilations, statistical compendia, and the like, so fixed or published, one copy of identifying portions of the work, reproduced in a form visually perceptible without

the aid of a machine or device, either on paper or in microform. For these purposes:

(1) *Identifying portions* shall generally mean either the first and last 25 pages or equivalent units of the work if reproduced on paper or in microform.

(2) *Datafile* and *file* shall mean a group of data records pertaining to a common subject matter regardless of their size or the number of data items in them.

(3) In the case of individual registration of a revised version of the works identified in paragraph (c)(2)(vii)(D) of this section, the identifying portions deposited shall contain 50 representative pages or data records which have been added or modified.

(4) If the work is an automated database comprising multiple separate or distinct data files, “identifying portions” shall instead consist of 50 complete data records from each data file or the entire data file, whichever is less, and the descriptive statement required by paragraph (c)(2)(vii)(D)(5) of this section.

(5) In the case of group registration for revised or updated versions of a database, the claimant shall deposit identifying portions that contain 50 representative pages or equivalent units, or representative data records which have been marked to disclose (or do in fact disclose solely) the new material added on one representative publication date if published, or on one representative creation date, if unpublished or in the case of electronically submitted applications for automated databases that predominantly consist of photographs, the claimant shall deposit identifying portions that comply with (D)(8) of this section; the claimant shall, also deposit a brief typed or printed descriptive statement containing the notice of copyright information required under paragraphs (c)(2)(vii)(D)(6) or (7) of this section, if the work bears a notice, and;

(i) The title of the database;

(ii) A subtitle, date of creation or publication, or other information, to distinguish any separate or distinct data files for cataloging purposes;

(iii) The name and address of the copyright claimant;

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(iv) For each separate file, its name and content, including its subject, the origin(s) of the data, and the approximate number of data records it contains; and

(v) In the case of revised or updated versions of an automated database, information as to the nature and frequency of changes in the database and some identification of the location within the database or the separate data files of the revisions.

(6) For a copyright notice embodied in machine-readable form, the statement shall describe exactly the visually perceptible content of the notice which appears in or with the database, and the manner and frequency with which it is displayed (e.g., at user's terminal only at sign-on, or continuously on terminal display, or on printouts, etc.).

(7) If a visually perceptible copyright notice is placed on any copies of the work (or on magnetic tape reels or containers therefor), a sample of such notice must also accompany the statement.

(8) In the case of an application submitted electronically for registration of a database that consists predominantly of photographs (including a group registration for revised or updated versions of such a database), "identifying portions" shall instead consist of all individual photographs included in the claim either in one of the formats set forth in paragraph (c)(2)(xx) of this section or in an electronic format submitted along with the electronic application after consultation and with the permission and under the direction of the Visual Arts Division.

(viii) *Machine-readable copies of works other than computer programs, databases, and works fixed in a CD-ROM format.* Where a literary, musical, pictorial, graphic, or audiovisual work, or a sound recording, except for works fixed in a CD-ROM format and literary works which are computer programs, databases, compilations, statistical compendia or the like, if unpublished has been fixed or, if published, has been published only in machine-readable form, the deposit must consist of identifying material. The type of identifying material submitted should gen-

erally be appropriate to the type of work embodied in machine-readable form, but in all cases should be that which best represents the copyrightable content of the work. In all cases the identifying material must include the title of the work. A synopsis may also be requested in addition to the other deposit materials as appropriate in the discretion of the Copyright Office. In the case of any published work subject to this section, the identifying material must include a representation of the copyright notice, if one exists. Identifying material requirements for certain types of works are specified below. In the case of the types of works listed below, the requirements specified shall apply except that, in any case where the specific requirements are not appropriate for a given work the form of the identifying material required will be determined by the Copyright Office in consultation with the applicant, but the Copyright Office will make the final determination of the acceptability of the identifying material.

(A) For pictorial or graphic works, the deposit shall consist of identifying material in compliance with § 202.21 of these regulations;

(B) For audiovisual works, the deposit shall consist of either a videotape of the work depicting representative portions of the copyrightable content, or a series of photographs or drawings, depicting representative portions of the work, plus in all cases a separate synopsis of the work;

(C) For musical compositions, the deposit shall consist of a transcription of the entire work such as a score, or a reproduction of the entire work on an audiocassette or other phonorecord;

(D) For sound recordings, the deposit shall consist of a reproduction of the entire work on an audiocassette or other phonorecord;

(E) For literary works, the deposit shall consist of a transcription of representative portions of the work including the first and last 25 pages or equivalent units, and five or more pages indicative of the remainder.

(ix) *Copies containing both visually-perceptible and machine-readable material other than a CD-ROM format.* Where a published literary work is embodied in

copies containing both visually-perceptible and machine-readable material, except in the case of a CD-ROM format, the deposit shall consist of the visually-perceptible material and identifying portions of the machine-readable material.

(x) *Works reproduced in or on sheetlike materials.* In the case of any unpublished work that is fixed, or any published work that is published, only in the form of a two-dimensional reproduction on sheetlike materials such as textiles and other fabrics, wallpaper and similar commercial wall coverings, carpeting, floor tile, and similar commercial floor coverings, and wrapping paper and similar packaging material, the deposit shall consist of one copy in the form of an actual swatch or piece of such material sufficient to show all elements of the work in which copyright is claimed and the copyright notice appearing on the work, if any. If the work consists of a repeated pictorial or graphic design, the complete design and at least part of one repetition must be shown. If the sheetlike material in or on which a published work has been reproduced has been embodied in or attached to a three-dimensional object, such as furniture, or any other three-dimensional manufactured article, and the work has been published only in that form, the deposit must consist of identifying material complying with §202.21 of these regulations instead of a copy. If the sheetlike material in or on which a published work has been reproduced has been embodied in or attached to a two-dimensional object such as wearing apparel, bed linen, or a similar item, and the work has been published only in that form, the deposit must consist of identifying material complying with §202.21 of these regulations instead of a copy unless the copy can be folded for storage in a form that does not exceed four inches in thickness.

(xi) *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 in-

formation 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, except as provided in paragraph (c)(2)(xi)(B)(3) of this section, or any three-dimensional useful article.

(B) In the following cases the requirements of paragraph (c)(2)(xi)(A) of this section for the deposit of identifying material shall not apply:

(1) Three-dimensional cartographic representations of area, such as globes and relief models;

(2) 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;

(3) Published games consisting of multiple parts that are packaged and published in a box or similar container with flat sides and with dimensions of no more than 12×24×6 inches;

(4) Works reproduced on three-dimensional containers or holders such as boxes, cases, and cartons, where the container or holder can be readily opened out, unfolded, slit at the corners, or in some other way made adaptable for flat storage, and the copy, when flattened, does not exceed 96 inches in any dimension; or

(5) Any three-dimensional sculptural work that, if unpublished, has been fixed, or, if published, has been published only in the form of jewelry cast in base metal which does not exceed four inches in any dimension.

(xii) *Soundtracks.* For separate registration of an unpublished work that is fixed, or a published work that is published, only as embodied in a soundtrack that is an integral part of a motion picture, the deposit of identifying material in compliance with §202.21 of these regulations will suffice in lieu of an actual copy of the motion picture.

(xiii) *Oversize deposits.* In any case where the deposit otherwise required by this section exceeds 96 inches in any

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dimension, identifying material complying with § 202.21 of these regulations must be submitted instead of an actual copy or copies.

(xiv) *Pictorial advertising material.* In the case of published pictorial advertising material, except for advertising material published in connection with motion pictures, the deposit of either one copy as published or prepublication material consisting of camera-ready copy is acceptable.

(xv) *Contributions to collective works.* In the case of published contributions to collective works, the deposit of either one complete copy of the best edition of the entire collective work, the complete section containing the contribution if published in a newspaper, the entire page containing the contribution, the contribution cut from the paper in which it appeared, or a photocopy of the contribution itself as it was published in the collective work, will suffice in lieu of two complete copies of the entire collective work.

(xvi) *Phonorecords.* In any case where the deposit phonorecord or phonorecords submitted for registration of a claim to copyright is inaudible on audio playback devices in the Registration Program of the Copyright Office, the Office will seek an appropriate deposit in accordance with paragraph (d) of this section.

(xvii) *Group registration of serials.* For group registration of related serials, as specified in § 202.3(b)(6), the deposit must consist of one complete copy of the best edition of each issue included in the group registration. In addition, two complimentary subscriptions to any serial for which group registration is sought must be entered and maintained in the name of the Library of Congress, and the copies must be submitted regularly and promptly after publication.

(xviii) *Architectural works.* (A) For designs of unconstructed buildings, the deposit must consist of one complete copy of an architectural drawing or blueprint in visually perceptible form showing the overall form of the building and any interior arrangements of spaces and/or design elements in which copyright is claimed. For archival purposes, the Copyright Office prefers that the drawing submissions consist of the

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following in descending order of preference:

(1) Original format, or best quality form of reproduction, including offset or silk screen printing;

(2) Xerographic or photographic copies on good quality paper;

(3) Positive photostat or photodirect positive;

(4) Blue line copies (diaz or ozalid process).

The Copyright Office prefers that the deposit disclose the name(s) of the architect(s) and draftsman(s) and the building site, if known.

(B) For designs of constructed buildings, the deposit must consist of one complete copy of an architectural drawing or blueprint in visually perceptible form showing the overall form of the building and any interior arrangement of spaces and/or design elements in which copyright is claimed. In addition, the deposit must also include identifying material in the form of photographs complying with § 202.21 of these regulations, which clearly discloses the architectural works being registered. For archival purposes, the Copyright Office prefers that the drawing submissions constitute the most finished form of presentation drawings and consist of the following in descending order of preference:

(1) Original format, or best quality form of reproduction, including offset or silk screen printing;

(2) Xerographic or photographic copies on good quality paper;

(3) Positive photostat or photodirect positive;

(4) Blue line copies (diaz or ozalid process).

With respect to the accompanying photographs, the Copyright Office prefers 8×10 inches, good quality photographs, which clearly show several exterior and interior views. The Copyright Office prefers that the deposit disclose the name(s) of the architect(s) and draftsman(s) and the building site.

(xix) *Works fixed in a CD-ROM format.* (A) Where a work is fixed in a CD-ROM format, the deposit must consist of one complete copy of the entire CD-ROM package, including a complete copy of any accompanying operating software and instructional manual, and a printed version of the work embodied in the

CD-ROM, if the work is fixed in print as well as a CD-ROM. A complete copy of a published CD-ROM package includes all of the elements comprising the applicable unit of publication, including elements that if considered separately would not be copyrightable subject matter or could be the subject of a separate registration.

(B) In any case where the work fixed in a CD-ROM package cannot be viewed on equipment available in the Registration Program of the Copyright Office, the Office will seek an appropriate deposit in accordance with paragraph (d) of this section, in addition to the deposit of the CD-ROM package.

(xx) *Photographs: group registration.* For groups of photographs registered with one application under §§ 202.3(b)(4)(i)(B) (unpublished collections) or 202.3(b)(10) (group registration of published photographs) and for automated databases that consist predominantly of photographs registered with an application submitted electronically under § 202.3(b)(5)(ii)(A), photographs must be deposited in one of the following formats (listed in the Library's order of preference):

(A) Digital form on one or more CD-ROMs (including CD-RW's) or DVD-ROMs, in one of the following formats: JPEG, GIF, TIFF, or PCD;

(B) Unmounted prints measuring at least 3 inches by 3 inches (not to exceed 20 inches by 24 inches);

(C) Contact sheets;

(D) Slides, each with a single image;

(E) A format in which the photograph has been published (e.g., clippings from newspapers or magazines);

(F) A photocopy of each of the photographs included in the group or database, clearly depicting the photograph, provided that if registration is made pursuant to § 202.3(b)(10) for group registration of photographs, the photocopy must be either a photocopy of an unmounted print measuring at least 3 inches by 3 inches (not to exceed 20 inches by 24 inches) or a photocopy of the photograph in a format in which it has been published, and if the photograph was published as a color photograph, the photocopy must be a color photocopy;

(G) Slides, each containing up to 36 images; or

(H) A videotape clearly depicting each photograph.

(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; or

(iv) Permit the deposit of identifying material which does not comply with § 202.21 of these regulations.

(2) Any decision as to whether to grant such special relief, and the conditions under which special relief is to be granted, shall be made by the Register of Copyrights after consultation with other appropriate officials of the Library of Congress, and shall be based upon the acquisition policies of the Library of Congress then in force and the archival and examining requirements of the Copyright Office.

(3) Requests for special relief under this paragraph may be combined with requests for special relief under § 202.19(e) of these regulations. Whether so combined or made solely under this paragraph, such requests shall be made in writing to the Associate Register for Registration Program of the Copyright Office, shall be signed by or on behalf of the person signing the application for registration, and shall set forth specific reasons why the request should be granted.

(4) The Register of Copyrights may, after consultation with other appropriate officials of the Library of Congress, terminate any ongoing or continuous grant of special relief. Notice of termination shall be given in writing and shall be sent to the individual person or organization to whom the grant of special relief had been given, at the last address shown in the records of the

Copyright Office. A notice of termination may be given at any time, but it shall state a specific date of termination that is at least 30 days later than the date the notice is mailed. Termination shall not affect the validity of any deposit or registration made earlier under the grant of special relief.

(e) *Use of copies and phonorecords deposited for the Library of Congress.* Copies and phonorecords deposited for the Library of Congress under section 407 of title 17 and § 202.19 of these regulations may be used to satisfy the deposit provisions of this section if they are accompanied by an application for registration of claim to copyright in the work represented by the deposit, and either a registration fee or a deposit account number on the application.

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 202.20, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at www.fdsys.gov.

§ 202.21 Deposit of identifying material instead of copies.

(a) *General.* Subject to the specific provisions of paragraphs (f) and (g) of this section, and to §§ 202.19(e)(1)(iv) and 202.20(d)(1)(iv), 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 should 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.

(b) *Completeness; number of sets.* As many pieces of identifying material as are necessary to show the entire copyrightable content in the ordinary case, but in no case less than an adequate representation of such content, of the work for which deposit is being made, or for which registration is being sought shall be submitted. Except in

cases falling under the provisions of § 202.19(d)(2)(iii) or § 202.20(c)(2)(iii) with respect to holograms, only one set of such complete identifying material is required.

(c) *Size.* Photographic transparencies must be at least 35mm in size and, if such transparencies are 3×3 inches or less, must be fixed in cardboard, plastic, or similar mounts to facilitate identification, handling, and storage. The Copyright Office prefers that transparencies larger than 3×3 inches be mounted in a way that facilitates their handling and preservation, and reserves the right to require such mounting in particular cases. All types of identifying material other than photographic transparencies must be not less than 3×3 inches and not more than 9×12 inches, but preferably 8×10 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.

(d) *Title and dimensions.* At least one piece of identifying material must, on its front, back, or mount, indicate the title of the work; and the indication of an exact measurement of one or more dimensions of the work is preferred.

(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 similar reproduction shall be submitted. Such reproduction shall be no smaller than 3×3 inches and no larger than 9×12 inches, and shall show the exact appearance and content of the notice, and its specific position on the work.

(f) For separate registration of an unpublished work that is fixed, or a published work that is published, only as embodied in a soundtrack that is an integral part of a motion picture, identifying material deposited in lieu of an actual copy of the motion picture shall consist of:

(1) A transcription of the entire work, or a reproduction of the entire work on a phonorecord; and

(2) Photographs or other reproductions from the motion picture showing the title of the motion picture, the soundtrack credits, and the copyright notice for the soundtrack, if any.

The provisions of paragraphs (b), (c), (d), and (e) of this section do not apply to identifying material deposited under this paragraph (f).

(g)(1) In the case of unpublished motion pictures (including transmission programs that have been fixed and transmitted to the public, but have not been published), identifying material deposited in lieu of an actual copy shall consist of either:

(i) An audio cassette or other phonorecord reproducing the entire soundtrack or other sound portion of the motion picture, and description of the motion picture; or

(ii) A set consisting of one frame enlargement or similar visual reproduction from each 10-minute segment of the motion picture, and a description of the motion picture.

(2) In either case the “description” may be a continuity, a pressbook, or a synopsis but in all cases it must include:

(i) The title or continuing title of the work, and the episode title, if any;

(ii) The nature and general content of the program;

(iii) The date when the work was first fixed and whether or not fixation was simultaneous with first transmission;

(iv) The date of first transmission, if any;

(v) The running time; and

(vi) The credits appearing on the work, if any.

(3) The provisions of paragraphs (b), (c), (d), and (e) of this section do not apply to identifying material submitted under this paragraph (g).

(h) In the case where the deposit copy or copies of a motion picture cannot be viewed for examining purposes on equipment in the Registration Program of the Copyright Office, the “description” required by §202.20(c)(2)(ii) of these regulations may be a continuity, a press-book, a synopsis, or a final shooting script but in all cases must be sufficient to indicate the copy-rightable material in the work and include

(1) The continuing title of the work and the episode title, if any;

(2) The nature and general content of the program and of its dialogue or narration, if any;

(3) The running time; and

(4) All credits appearing on the work including the copyright notice, if any.

The provisions of paragraphs (b), (c), and (d) of this section do not apply to identifying material submitted under this paragraph (h).

[51 FR 6409, Feb. 24, 1986, as amended at 73 FR 37839, July 2, 2008]

§ 202.22 Acquisition and deposit of unpublished audio and audiovisual transmission programs.

(a) *General.* This section prescribes rules pertaining to the acquisition of phonorecords and copies of unpublished audio and audiovisual transmission programs by the Library of Congress under section 407(e) of title 17 of the United States Code, as amended. It also prescribes rules pertaining to the use of such phonorecords and copies in the registration of claims to copyright, under section 408(b).

(b) *Definitions.* For purposes of this section:

(1) The terms copies, fixed, phonorecords, publication, and transmission program and their variant forms, have the meanings given to them in section 101 of title 17. The term network station has the meaning given it in section 111(f) of title 17. For the purpose of this section, the term transmission includes transmission via the Internet, cable, broadcasting, and satellite systems, and via any other existing or future devices or processes for the communication of a performance or display whereby images or sounds are received beyond the place from which they are sent.

(2) *Title 17* means title 17 of the United States Code, as amended.

(c) *Recording of transmission programs.*

(1) Library of Congress employees, including Library of Congress contractors, acting under the general authority of the Librarian of Congress, may make a fixation of an unpublished audio or audiovisual transmission program directly from a transmission to the public in the United States, in accordance with subsections 407(e)(1) and

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(4) of title 17 of the United States Code. The choice of programs selected for fixation shall be based on the Library of Congress's acquisition policies in effect at the time of fixation. Specific notice of an intent to record a transmission program will ordinarily not be given. In general, the Library of Congress will seek to record a substantial portion of the television programming transmitted by noncommercial educational broadcast stations as defined in section 397 of title 47 of the United States Code, and will record selected programming transmitted by commercial television broadcast stations, both network and independent. The Library will also record a selected portion of the radio programming transmitted by commercial and noncommercial broadcast stations. Additionally, the Library will record a selected portion of unpublished Internet, cable and satellite programming transmitted to the public in the United States.

(2) Upon written request addressed to the Chief, Motion Picture, Broadcasting and Recorded Sound Division by a broadcast station or other owner of the right of transmission, the Library of Congress will inform the requestor whether a particular transmission program has been recorded by the Library.

(3) The Library of Congress will not knowingly record any unfixed or published transmission program under the recording authority of section 407(e) of title 17 of the United States Code.

(4) The Library of Congress is entitled under this paragraph (c) to presume that a radio program transmitted to the public in the United States has been fixed but not published at the time of transmission, and that a television program transmitted to the public in the United States by a noncommercial educational broadcast station as defined in section 397 of title 47 of the United States Code has been fixed but not published.

(5) The presumption established by paragraph (c)(4) of this section may be overcome by written declaration and submission of appropriate documentary evidence to the Chief, Motion Picture, Broadcasting and Recorded Sound Division, either before or after recording of the particular transmission program

by the Library of Congress. Such written submission shall contain:

(i) The identification, by title and time of broadcast, of the transmission program in question;

(ii) A brief statement declaring either that the program was not fixed or that it was published at the time of transmission;

(iii) If it is declared that the program was published at the time of transmission, a brief statement of the facts of publication, including the date and place thereof, the method of publication, the name of the owner of the right of first publication, and whether the work was published in the United States; and

(iv) The actual handwritten signature of an officer or other duly authorized agent of the organization which transmitted the program in question.

(6) A declaration that the program was unfixed at the time of transmission shall be accepted by the Library of Congress, unless the Library can cite evidence to the contrary, and the copy or phonorecord will either be

(i) Erased; or

(ii) Retained, if requested by the owner of copyright or of any exclusive right, to satisfy the deposit provision of section 408 of title 17 of the United States Code.

(7) If it is declared that the program was published at the time of transmission, the Library of Congress is entitled under this section to retain the copy or phonorecord to satisfy the deposit requirement of section 407(a) of title 17 of the United States Code.

(8) The Library of Congress shall maintain a list of the radio, cable, Internet and satellite transmission programs that the Library has recorded on the Motion Picture, Broadcasting and Recorded Sound Division Web site at <http://www.loc.gov/rr/record/> for audio transmission programs, or <http://www.loc.gov/rr/mopic/> for audiovisual transmission programs, and, in making fixations of such unpublished transmission programs, shall identify a program that the Library has recorded by including that transmission program on the list no later than fourteen days after such fixation has occurred.

The Library of Congress in making fixations of unpublished television transmission programs transmitted by commercial broadcast stations shall not do so without notifying the transmitting organization or its agent that such activity is taking place. In the case of television network stations, the notification will be sent to the particular network. In the case of any other commercial television broadcasting station, the notification will be sent to the particular broadcast station that has transmitted, or will transmit, the program. Such notice shall, if possible, be given by the Library of Congress prior to the time of broadcast. In every case, the Library of Congress shall transmit such notice no later than fourteen days after such fixation has occurred. Such notice shall contain:

(i) The identification, by title and time of broadcast, of the transmission program in question;

(ii) A brief statement asserting the Library of Congress' belief that the transmission program has been, or will be by the date of transmission, fixed and is unpublished, together with language converting the notice to a demand for deposit under section 407 (a) and (b) of title 17 of the United States Code, if the transmission program has been published in the United States.

(9) The notice required by paragraph (c)(8) of this section shall not cover more than one transmission program except that the notice may cover up to thirteen episodes of one title if such episodes are generally scheduled to be broadcast at the same time period on a regular basis, or may cover all the episodes comprising the title if they are scheduled to be broadcast within a period of not more than two months.

(d) *Demands for deposit of a transmission program.* (1) The Register of Copyrights may make a written demand upon the owner of the right of transmission in the United States to deposit a copy or phonorecord of a specific transmission program for the benefit of the Library of Congress under the authority of section 407(e)(2) of title 17 of the United States Code.

(2) The Register of Copyrights is entitled to presume, unless clear evidence to the contrary is proffered, that the transmitting organization is the owner

of the United States transmission right.

(3) Notices of demand shall be in writing and shall contain:

(i) The identification, by title and time of broadcast, of the work in question;

(ii) An explanation of the optional forms of compliance, including transfer of ownership of a copy or phonorecord to the Library, lending a copy or phonorecord to the Library for reproduction, or selling a copy or phonorecord to the Library at a price not to exceed the cost of reproducing and supplying the copy or phonorecord;

(iii) A ninety-day deadline by which time either compliance or a request for an extension of a request to adjust the scope of the demand or the method for fulfilling it shall have been received by the Register of Copyrights;

(iv) A brief description of the controls which are placed on the use of the copies or phonorecords;

(v) A statement concerning the Register's perception of the publication status of the program, together with language converting this demand to a demand for a deposit, under 17 U.S.C. 407, if the recipient takes the position that the work is published; and

(vi) A statement that a *compliance copy*, or in the case of an audio transmission program, a compliance phonorecord, must be made and retained if the notice is received prior to transmission.

(4) With respect to paragraph (d)(3)(ii) of this section, the sale of a copy or phonorecord in compliance with a demand of this nature shall be at a price not to exceed the cost to the Library of reproducing and supplying the copy or phonorecord. The notice of demand should therefore inform the recipient of that cost and set that cost, plus reasonable shipping charges, as the maximum price for such a sale.

(5) Copies and phonorecords transferred, lent, or sold under paragraph (d) of this section shall be of sound physical condition as described in Appendix A to this section.

(6) *Special relief.* In the case of any demand made under paragraph (d) of this section the Register of Copyrights may, after consultation with other appropriate officials of the Library of

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Congress and upon such conditions as the Register may determine after such consultation,

(i) Extend the time period provided in subparagraph (d)(3)(iii);

(ii) Make adjustments in the scope of the demand; or

(iii) Make adjustments in the method of fulfilling the demand. Any decision as to whether to allow such extension or adjustments shall be made by the Register of Copyrights after consultation with other appropriate officials of the Library of Congress and shall be made as reasonably warranted by the circumstances. Requests for special relief under paragraph (d) of this section shall be made in writing to the Copyright Acquisitions Division, shall be signed by or on behalf of the owner of the right of transmission in the United States and shall set forth the specific reasons why the request should be granted.

(e) *Disposition and use of copies and phonorecords.* (1) All copies and phonorecords acquired under this section shall be maintained by the Motion Picture, Broadcasting and Recorded Sound Division of the Library of Congress. The Library may make one archival copy or phonorecord of a program which it has fixed under the provisions of section 407(e)(1) of title 17 of the United States Code and paragraph (c) of this section.

(2) All copies and phonorecords acquired or made under this section, except copies and phonorecords of transmission programs consisting of a regularly scheduled newscast or on-the-spot coverage of news events, shall be subject to the following restrictions concerning copying and access: in the case of television or other audiovisual transmission programs, copying and access are governed by Library of Congress Regulation 818-17, Policies Governing the Use and Availability of Motion Pictures and Other Audiovisual Works in the Collections of the Library of Congress, or its successors; in the case of audio transmission programs, copying and access are governed by Library of Congress Regulation 818-18.1, Recorded Sound Listening and Duplication Services, or its successors. Transmission programs consisting of regularly scheduled newscasts or on-the-

spot coverage of news events are subject to the provisions of the "American Television and Radio Archives Act," 2 U.S.C. 170, and such regulations as the Librarian of Congress shall prescribe.

(f) *Registration of claims to copyright.* (1) Copies and phonorecords fixed by the Library of Congress under the provisions of paragraph (c) of this section may be used as the deposit for copyright registration provided that:

(i) The application and fee, in a form acceptable for registration, is received by the Copyright Office not later than ninety days after transmission of the program, and

(ii) Correspondence received by the Copyright Office in the envelope containing the application and fee states that a fixation of the instant work was made by the Library of Congress and requests that the copy or phonorecord so fixed be used to satisfy the registration deposit provisions.

(2) Copies and phonorecords transferred, lent, or sold to the Library of Congress under the provisions of paragraph (d) of this section may be used as the deposit for copyright registration purposes only when the application and fee, in a form acceptable for registration, accompany, in the same container, the copy or phonorecord lent, transferred, or sold, and there is an explanation that the copy or phonorecord is intended to satisfy both the demand issued under section 407(e)(2) of title 17 of the United States Code and the registration deposit provisions.

(g) *Agreements modifying the terms of this section.* (1) The Library of Congress may, at its sole discretion, enter into an agreement whereby the provision of copies or phonorecords of unpublished audio or audiovisual transmission programs on terms different from those contained in this section is authorized.

(2) Any such agreement may be terminated without notice by the Library of Congress.

(17 U.S.C. 407, 408, 702)

[48 FR 37208, Aug. 17, 1983, as amended at 56 FR 7815, Feb. 26, 1991; 60 FR 34168, June 30, 1995; 64 FR 36575, July 7, 1999; 66 FR 34373, June 28, 2001; 69 FR 62411, Oct. 26, 2004]

§ 202.23 Full term retention of copyright deposits.

(a) *General.* (1) This section prescribes conditions under which a request for full term retention, under the control of the Copyright Office, of copyright deposits (copies, phonorecords, or identifying material) of published works may be made and granted or denied pursuant to section 704(e) of title 17 of the United States Code. Only copies, phonorecords, or identifying material deposited in connection with registration of a claim to copyright under title 17 of the United States Code are within the provisions of this section. Only the depositor or the copyright owner of record of the work identified by the copyright deposit, or a duly authorized agent of the depositor or copyright owner, may request full term retention. A fee for this service is fixed by this section pursuant to section 708(a)(11) of title 17 of the United States Code.

(2) For purposes of this section, *under the control of the Copyright Office* shall mean within the confines of Copyright Office buildings and under the control of Copyright Office employees, including retention in a Federal records center, but does not include transfer to the Library of Congress collections.

(3) For purposes of this section, *full term retention* means retention for a period of 75 years from the date of publication of the work identified by the particular copyright deposit which is retained.

(4) For purposes of this section, *copyright deposit* or its plural means the copy, phonorecord, or identifying material submitted to the Copyright Office in connection with a published work that is subsequently registered and made part of the records of the Office.

(b) *Form and content of request for full term retention*—(1) *Forms.* The Copyright Office does not provide printed forms for the use of persons requesting full term retention of copyright deposits.

(2) Requests for full term retention must be made in writing addressed to the Chief, Information and Records Division of the Copyright Office, and shall (i) be signed by or on behalf of the depositor or copyright owner of record,

and (ii) clearly indicate that full term retention is desired.

(3) The request for full term retention must adequately identify the particular copyright deposit to be retained, preferably by including the title used in the registration application, the name of the depositor or copyright owner of record, the publication date, and, if registration was completed earlier, the registration number.

(c) *Conditions under which requests will be granted or denied*—(1) *General.* A request that meets the requirements of paragraph (b) of this section will generally be granted if the copyright deposit for which full term retention is requested has been continuously in the custody of the Copyright Office and the Library of Congress has not, by the date of the request, selected the copyright deposit for its collections.

(2) *Time of request.* The request for full term retention of a particular copyright deposit may be made at the time of deposit or at any time thereafter; however, the request will be granted only if at least one copy, phonorecord, or set of identifying material is in the custody of the Copyright Office at the time of the request. Where the request is made concurrent with the initial deposit of the work for registration, the requestor must submit one copy or phonorecord more than the number specified in § 202.20 of for the particular work.

(3) *One deposit retained.* The Copyright Office will retain no more than one copy, phonorecord, or set of identifying material for a given registered work.

(4) *Denial of request for full term retention.* The Copyright Office reserves the right to deny the request for full term retention where:

(i) The excessive size, fragility, or weight of the deposit would, in the sole discretion of the Register of Copyrights, constitute an unreasonable storage burden. The request may nevertheless be granted if, within 60 calendar days of the original denial of the request, the requestor pays the reasonable administrative costs, as fixed in the particular case by the Register of Copyrights, of preparing acceptable identifying materials for retention in lieu of the actual copyright deposit;

(ii) The Library of Congress has selected for its collections the single copyright deposit, or both, if two copies or phonorecords were deposited; or

(iii) Retention would result in a health or safety hazard, in the sole judgment of the Register of Copyrights. The request may nevertheless be granted if, within 60 calendar days of the original denial of the request, the requestor pays the reasonable administrative costs, as fixed in the particular case by the Register of Copyrights of preparing acceptable identifying materials for retention in lieu of the actual copyright deposit.

(d) *Form of copyright deposit.* If full term retention is granted, the Copyright Office will retain under its control the particular copyright deposit used to make registration for the work. Any deposit made on or after September 19, 1978, shall satisfy the requirements of §§ 202.20 and 202.21.

(e) *Fee for full term retention.* (1) Pursuant to section 708(a)(11) of title 17 of the United States Code, the Register of Copyrights has fixed the fee for full term retention, as prescribed in § 201.3(d), for each copyright deposit granted full term retention.

(2) A check or money order in the amount prescribed in § 201.3(d) payable to the Register of Copyrights, must be received in the Copyright Office within 60 calendar days from the date of mailing of the Copyright Office's notification to the requestor that full term retention has been granted for a particular copyright deposit.

(3) The Copyright Office will issue a receipt acknowledging payment of the fee and identifying the copyright deposit for which full term retention has been granted.

(f) *Selection by Library of Congress—(1) General.* All published copyright deposits are available for selection by the Library of Congress until the Copyright Office has formally granted a request for full term retention. Unless the requestor has deposited the additional copy or phonorecord specified by paragraph (c)(2) of this section, the Copyright Office will not process a request for full term retention submitted concurrent with a copyright registration application and deposit, until the Library of Congress has had a reason-

able amount of time to make its selection determination.

(2) A request for full term retention made at the time of deposit of a published work does not affect the right of the Library to select one or both of the copyright deposits.

(3) If one copyright deposit is selected, the second deposit, if any, will be used for full term retention.

(4) If both copyright deposits are selected, or, in the case where the single deposit made is selected, full term retention will be granted only if the additional copy or phonorecord specified by paragraph (c)(2) was deposited.

(g) *Termination of full term storage.* Full term storage will cease 75 years after the date of publication of the work identified by the copyright deposit retained, and the copyright deposit will be disposed of in accordance with section 704, paragraphs (b) through (d), of title 17 of the United States Code.

[52 FR 28822, Aug. 4, 1987, as amended at 60 FR 34168, June 30, 1995; 63 FR 29139, May 28, 1998; 64 FR 29522, June 1, 1999; 64 FR 36575, July 7, 1999; 65 FR 39819, June 28, 2000; 73 FR 37839, July 2, 2008]

§ 202.24 Deposit of published electronic works available only online.

(a) Pursuant to authority under 17 U.S.C. 407(d), the Register of Copyrights may make written demand to deposit one complete copy or a phonorecord of an electronic work published in the United States and available only online upon the owner of copyright or of the exclusive right of publication in the work, under the following conditions:

(1) Demands may be made only for works in those categories identified in § 202.19(c)(5) of these regulations as being subject to demand.

(2) Demands may be made only for works published on or after February 24, 2010.

(3) The owner of copyright or of the exclusive right of publication must deposit the demanded work within three months of the date the demand notice is received.

(4) Copies or phonorecords deposited in response to a demand must be able to be accessed and reviewed by the Copyright Office, Library of Congress,

and the Library's authorized users on an ongoing basis.

(b) *Technical standards.* Technical standards for the transmission of copies of online-only works to the Copyright Office in response to a demand will be available on the Copyright Office website (*www.copyright.gov*).

(c) *Definitions.* (1) "Best edition" has the meaning set forth in §202.19(b)(1) of these regulations.

(2) "Complete copy" has the meaning set forth in §202.19(b)(2) of these regulations.

(3) "Electronic works" are works fixed and published solely in an electronic format.

(d) *Special relief.* (1) In the case of any demand made under paragraph (a) of this section, 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) Extend the time period provided in section 407(d) of Title 17;

(ii) Permit the deposit of incomplete copies or phonorecords; or

(iii) Permit the deposit of copies or phonorecords other than those normally comprising the best edition.

(2) Any decision as to whether to grant such special relief, and the conditions under which special relief is to be granted, shall be made by the Register of Copyrights after consultation with other appropriate officials of the Library of Congress, and shall be based upon the acquisition policies of the Library of Congress then in force.

(3) Requests for special relief under this section shall be made in writing to the Copyright Acquisitions Division, shall be signed by or on behalf of the owner of copyright or of the exclusive right of publication in the work, and shall set forth specific reasons why the request should be granted.

[75 FR 3869, Jan. 25, 2010]

APPENDIX A TO PART 202—TECHNICAL GUIDELINES REGARDING SOUND PHYSICAL CONDITION

To be considered a copy "of sound physical condition" within the meaning of 37 CFR 202.22(d)(5), a copy shall conform to all the technical guidelines set out in this Appendix.

A. *Physical Condition.* All portions of the copy that reproduce the transmission program must be:

1. *Clean:* Free from dirt, marks, spots, fungus, or other smudges, blotches, blemishes, or distortions;

2. *Undamaged:* Free from burns, blisters, tears, cuts, scratches, breaks, erasure, or other physical damage. The copies must also be free from:

(i) Any damage that interferes with performance from the tape or other reproduction, including physical damage resulting from earlier mechanical difficulties such as cassette jamming, breaks, tangles, or tape overflow; and

(ii) Any erasures, damage causing visual or audible defects or distortions or any material remaining from incomplete erasure of previously recorded works.

3. *Unspliced:* Free from splices in any part of the copy reproducing the transmission program, regardless of whether the splice involves the addition or deletion of material or is intended to repair a break or cut.

4. *Undeteriorated:* Free from any visual or aural deterioration resulting from aging or exposure to climatic, atmospheric, or other chemical or physical conditions, including heat, cold, humidity, electromagnetic fields, or radiation. The copy shall also be free from excessive brittleness or stretching, from any visible flaking of oxide from the tape base or other medium, and from other visible signs of physical deterioration or excessive wear.

B. *Physical Appurtenances of Deposit Copy.*

1. *Physical Housing of Video Tape Copy.* (a) In the case of video tape reproduced for reel-to-reel performance, the deposit copy shall consist of reels of uniform size and length. The length of the reels will depend on both the size of the tape and its running time (the last reel may be shorter). (b) In the case of video tape reproduced for cassette, cartridge, or similar performance, the tape drive mechanism shall be fully operable and free from any mechanical defects.

2. *"Leader" or Equivalent.* The copy, whether housed in reels, cassettes, or cartridges, shall have a leader segment both preceding the beginning and following the end of the recording.

C. *Visual and Aural Quality of Copy:*

1. *Visual Quality.* The copy should be equivalent to an evaluated first generation copy from an edited master tape and must reproduce a flawless and consistent electronic signal that meets industry standards for television screening.

2. *Aural Quality.* The sound channels or other portions must reproduce a flawless and consistent electronic signal without any audible defects.

(17 U.S.C. 407, 408, 702)

[48 FR 37209, Aug. 17, 1983, as amended at 60 FR 34168, June 30, 1995]

APPENDIX B TO PART 202—“BEST EDITION” OF PUBLISHED COPYRIGHTED WORKS FOR THE COLLECTIONS OF THE LIBRARY OF CONGRESS

The copyright law (title 17, United States Code) requires that copies or phonorecords deposited in the Copyright Office be of the “best edition” of the work. The law states that “The ‘best edition’ of a work is the edition, published in the United States at any time before the date of deposit, that the Library of Congress determines to be most suitable for its purposes.” (For works first published only in a country other than the United States, the law requires the deposit of the best edition as first published.)

When two or more editions of the same version of a work have been published, the one of the highest quality is generally considered to be the best edition. In judging quality, the Library of Congress will adhere to the criteria set forth below in all but exceptional circumstances.

Where differences between editions represent variations in copyrightable content, each edition is a separate version and “best edition” standards based on such differences do not apply. Each such version is a separate work for the purpose of the copyright law.

The criteria to be applied in determining the best edition of each of several types of material are listed below in descending order of importance. In deciding between two editions, a criterion-by-criterion comparison should be made. The edition which first fails to satisfy a criterion is to be considered of inferior quality and will not be an acceptable deposit. Example: If a comparison is made between two hardbound editions of a book, one a trade edition printed on acid-free paper, and the other a specially bound edition printed on average paper, the former will be the best edition because the type of paper is a more important criterion than the binding.

Under regulations of the Copyright Office, potential depositors may request authorization to deposit copies or phonorecords of other than the best edition of a specific work (e.g., a microform rather than a printed edition of a serial), by requesting “special relief” from the deposit requirements. All requests for special relief should be in writing and should state the reason(s) why the applicant cannot send the required deposit and what the applicant wishes to submit instead of the required deposit.

I. Printed Textual Matter

- A. Paper, Binding, and Packaging:
1. Archival-quality rather than less-permanent paper.
 2. Hard cover rather than soft cover.
 3. Library binding rather than commercial binding.

4. Trade edition rather than book club edition.
5. Sewn rather than glue-only binding.
6. Sewn or glued rather than stapled or spiral-bound.
7. Stapled rather than spiral-bound or plastic-bound.
8. Bound rather than looseleaf, except when future looseleaf insertions are to be issued. In the case of looseleaf materials, this includes the submission of all binders and indexes when they are part of the unit as published and offered for sale or distribution. Additionally, the regular and timely receipt of all appropriate looseleaf updates, supplements, and releases including supplemental binders issued to handle these expanded versions, is part of the requirement to properly maintain these publications.
9. Slip-cased rather than nonslip-cased.
10. With protective folders rather than without (for broadsides).
11. Rolled rather than folded (for broadsides).
12. With protective coatings rather than without (except broadsides, which should not be coated).

B. Rarity:

1. Special limited edition having the greatest number of special features.
 2. Other limited edition rather than trade edition.
 3. Special binding rather than trade binding.
- C. Illustrations:
1. Illustrated rather than unillustrated.
 2. Illustrations in color rather than black and white.
- D. Special Features:
1. With thumb notches or index tabs rather than without.
 2. With aids to use such as overlays and magnifiers rather than without.
- E. Size:
1. Larger rather than smaller sizes. (Except that large-type editions for the partially-sighted are not required in place of editions employing type of more conventional size.)

II. Photographs

- A. Size and finish, in descending order of preference:
1. The most widely distributed edition.
 2. 8x10-inch glossy print.
 3. Other size or finish.
- B. Unmounted rather than mounted.
- C. Archival-quality rather than less-permanent paper stock or printing process.

III. Motion Pictures

Film medium is considered a better quality than any other medium. The formats under “film” and “video formats” are listed in descending order of preference:

A. Film

1. Preprint material, by special arrangement

2. 70 mm positive print, if original production negative is greater than 35 mm
3. 35 mm positive prints
4. 16 mm positive prints
- B. Video Formats
 1. Betacam SP
 2. Digital Beta (Digibeta)
 3. DVD
 4. VHS Cassette

IV. Other Graphic Matter

- A. Paper and Printing:
 1. Archival quality rather than less-permanent paper.
 2. Color rather than black and white.
- B. Size and Content:
 1. Larger rather than smaller size.
 2. In the case of cartographic works, editions with the greatest amount of information rather than those with less detail.
- C. Rarity:
 1. The most widely distributed edition rather than one of limited distribution.
 2. In the case of a work published only in a limited, numbered edition, one copy outside the numbered series but otherwise identical.
 3. A photographic reproduction of the original, by special arrangement only.
- D. Text and Other Materials:
 1. Works with annotations, accompanying tabular or textual matter, or other interpretative aids rather than those without them.
- E. Binding and Packaging:
 1. Bound rather than unbound.
 2. If editions have different binding, apply the criteria in I.A.2-I.A.7, above.
 3. Rolled rather than folded.
 4. With protective coatings rather than without.

V. Phonorecords

- A. Compact digital disc rather than a vinyl disc.
- B. Vinyl disc rather than tape.
- C. With special enclosures rather than without.
- D. Open-reel rather than cartridge.
- E. Cartridge rather than cassette.
- F. Quadraphonic rather than stereophonic.
- G. True stereophonic rather than monaural.
- H. Monaural rather than electronically rechanneled stereo.

VI. Musical Compositions

- A. Fullness of Score:
 1. *Vocal music*:
 - a. With orchestral accompaniment—
 1. Full score and parts, if any, rather than conductor's score and parts, if any. (In cases of compositions published only by rental, lease, or lending, this requirement is reduced to full score only.)
 - ii. Conductor's score and parts, if any, rather than condensed score and parts, if

any. (In cases of compositions published only by rental, lease, or lending, this requirement is reduced to conductor's score only.)

b. Unaccompanied: Open score (each part on separate staff) rather than closed score (all parts condensed to two staves).

2. *Instrumental music*:

a. Full score and parts, if any, rather than conductor's score and parts, if any. (In cases of compositions published only by rental, lease, or lending, this requirement is reduced to full score only.)

b. Conductor's score and parts, if any, rather than condensed score and parts, if any. (In cases of compositions published only by rental, lease, or lending, this requirement is reduced to conductor's score only.)

B. Printing and Paper:

1. Archival-quality rather than less-permanent paper.

C. Binding and Packaging:

1. Special limited editions rather than trade editions.

2. Bound rather than unbound.

3. If editions have different binding, apply the criteria in I.A.2-I.A.12, above.

4. With protective folders rather than without.

VII. Microforms

A. Related Materials:

1. With indexes, study guides, or other printed matter rather than without.

B. Permanence and Appearance:

1. Silver halide rather than any other emulsion.

2. Positive rather than negative.

3. Color rather than black and white.

C. Format (newspapers and newspaper-formatted serials):

1. Reel microfilm rather than any other microform.

D. Format (all other materials):

1. Microfiche rather than reel microfilm.

2. Reel microfilm rather than microform cassettes.

3. Microfilm cassettes rather than microopaque prints.

E. Size:

1. 35 mm rather than 16 mm.

VIII. Machine-Readable Copies

A. Computer Programs

1. With documents and other accompanying material rather than without.

2. Not copy-protected rather than copy-protected (if copy-protected then with a backup copy of the disk(s)).

3. *Format*:

a. PC-DOS or MS-DOS (or other IBM compatible formats, such as XENIX):

(i) 5¼" Diskette(s).

(ii) 3½" Diskette(s).

(iii) Optical media, such as CD-ROM—best edition should adhere to prevailing NISO standards.

b. Apple Macintosh:

(i) 3½" Diskette(s).

(ii) Optical media, such as CD-ROM—best edition should adhere to prevailing NISO standards.

B. Computerized Information Works, Including Statistical Compendia, Serials, or Reference Works:

1. With documentation and other accompanying material rather than without.

2. With best edition of accompanying program rather than without.

3. Not copy-protected rather than copy-protected (if copy-protected then with a backup copy of the disk(s)).

4. *Format*

a. PC-DOS or MS-DOS (or other IBM compatible formats, such as XENIX):

(i) Optical media, such as CD-ROM—best edition should adhere to prevailing NISO standards.

(ii) 5¼" Diskette(s).

(iii) 3½" Diskette(s).

b. Apple Macintosh:

(i) Optical media, such as CD-ROM—best edition should adhere to prevailing NISO standards.

(ii) 3½" Diskette(s).

IX. Electronic Works Published in the United States and Available Only Online

For all deposits, UTF-8 encoding is preferred to ASCII encoding and other non UTF-8 encodings for non-Latin character sets in all categories below.

A. Electronic Serials

1. Content Format

a. Level 1: Serials-specific structured/markup format:

(i) Content compliant with the NLM Journal Archiving (XML) Document Type Definition (DTD), with presentation stylesheet(s), rather than without.

(ii) Other widely used serials or journal XML DTDs/schemas, with presentation stylesheet(s), rather than without.

(iii) Proprietary XML format for serials or journals (with documentation), with DTD/schema and presentation stylesheet(s), rather than without.

b. Level 2: Page-oriented rendition:

(i) PDF/A (Portable Document Format/Archival; compliant with ISO 19005).

(ii) PDF (Portable Document Format, with searchable text, rather than without).

c. Level 3: Other formats:

(i) XHTML/HTML, as made available online, with presentation stylesheets(s), rather than without.

(ii) XML (widely used, publicly documented XML-based word-processing formats, e.g., ODF/OpenDocument Format, Office OpenXML), with presentation stylesheets(s), if appropriate, rather than without.

(iii) Plain text.

(iv) Other formats (e.g., proprietary word processing or page layout formats).

2. Metadata Elements:

If it has already been gathered and is available, descriptive data (metadata) as described below should accompany the deposited material.

a. Title level metadata: serial or journal title, ISSN, publisher, frequency, place of publication.

b. Article level metadata, as relevant/applicable: volume(s), number(s), issue dates(s), article title(s), article author(s), article identifier (DOI, etc.).

c. With other descriptive metadata (e.g., subject heading(s), descriptor(s), abstract(s)), rather than without.

3. Technological measures that control access to or use of the work should be removed.

X. Works Existing in More Than One Medium

Editions are listed below in descending order of preference.

A. Newspapers, dissertations and theses, newspaper-formatted serials:

1. Microform.

2. Printed matter.

B. All other materials:

1. Printed matter.

2. Microform.

3. Phonorecord.

[54 FR 42299, Oct. 16, 1989, as amended at 62 FR 51603, Oct. 2, 1997; 69 FR 8822, Feb. 26, 2004; 75 FR 3869, Jan. 25, 2010]

PART 203—FREEDOM OF INFORMATION ACT: POLICIES AND PROCEDURES

ORGANIZATION

Sec.

203.1 General.

203.2 Authority and functions.

203.3 Organization.

PROCEDURES

203.4 Methods of operation.

AVAILABILITY OF INFORMATION

203.5 Inspection and copying.

CHARGES FOR SEARCH FOR REPRODUCTION

203.6 Schedule of fees and methods of payment for services rendered.

AUTHORITY: 17 U.S.C 702; 5 U.S.C 552, as amended.

SOURCE: 43 FR 774, Jan. 4, 1978, unless otherwise noted.