

(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; 78 FR 42875, July 18, 2013]

§§ 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 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 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