

§ 201.23

37 CFR Ch. II (7-1-02 Edition)

the further conditions of said paragraph (e) are met.

(e) *Service.* (1) An Advance Notice of Potential Infringement shall be served on the person responsible for the potential infringement not less than 48 hours before the first fixation and simultaneous transmission of the work as provided by 17 U.S.C. 411(b)(1).

(2) Service of the Advance Notice may be effected by any of the following methods:

- (i) Personal service;
- (ii) First-class mail; or
- (iii) Telegram, cablegram, or similar form of communication, if:

(A) The Advance Notice meets all of the other conditions provided by this section; and

(B) Before the first fixation and simultaneous transmission take place, the person responsible for the potential infringement receives written confirmation of the Advance Notice, bearing the actual handwritten signature of the copyright owner or duly authorized agent.

(3) The date of service is the date the Advance Notice of Potential Infringement is received by the person responsible for the potential infringement or by any agent or employee of that person.

(17 U.S.C. 411, 702)

[46 FR 28849, May 29, 1981, as amended at 63 FR 66042, Dec. 1, 1998; 66 FR 34373, June 28, 2001]

§ 201.23 Transfer of unpublished copyright deposits to the Library of Congress.

(a) *General.* This section prescribes rules governing the transfer of unpublished copyright deposits in the custody of the Copyright Office to the Library of Congress. The copyright deposits may consist of copies, phonorecords, or identifying material deposited in connection with registration of claims to copyright under section 408 of title 17 of the United States Code, as amended by Pub. L. 94-553, 90 Stat. 2541, effective January 1, 1978. These rules establish the conditions under which the Library of Congress is entitled to select deposits of unpublished works for its collections or for permanent transfer to the National Archives of the United States or to a Fed-

eral records center in accordance with section 704(b) of title 17 of the United States Code, as amended by Pub. L. 94-553.

(b) *Selection by the Library of Congress.* The Library of Congress may select any deposits of unpublished works for the purposes stated in paragraph (a) of this section at the time of registration or at any time thereafter; *Provided, That:*

(1) A facsimile reproduction of the entire copyrightable content of the deposit shall be made a part of the Copyright Office records before transfer to the Library of Congress as provided by section 704(c) of title 17 of the United States Code, as amended by Pub. L. 94-553, unless, within the discretion of the Register of Copyrights, it is considered impractical or too expensive to make the reproduction;

(2) All unpublished copyright deposits retained by the Library of Congress in its collections shall be maintained under the control of the Library of Congress with appropriate safeguards against unauthorized copying or other unauthorized use of the deposits which would be contrary to the rights of the copyright owner in the work under title 17 of the United States Code, as amended by Pub. L. 94-553; and

(3) At the time selection is made a request for full term retention of the deposit under the control of the Copyright Office has not been granted by the Register of Copyrights, in accordance with section 704(e) of title 17 of the United States Code, as amended by Pub. L. 94-553.

(17 U.S.C. 702, 704)

[45 FR 41414, June 19, 1980]

§ 201.24 Warning of copyright for software lending by nonprofit libraries.

(a) *Definition.* A Warning of Copyright for Software Rental is a notice under paragraph (b)(2)(A) of section 109 of the Copyright Act, title 17 of the United States Code, as amended by the Computer Software Rental Amendments Act of 1990, Public Law 101-650. As required by that paragraph, the "Warning of Copyright for Software

Rental” shall be affixed to the packaging that contains the computer program which is lent by a nonprofit library for nonprofit purposes.

(b) *Contents.* A Warning of Copyright for Software Rental shall consist of a verbatim reproduction of the following notice, printed in such size and form and affixed in such manner as to comply with paragraph (c) of this section.

Notice: Warning of Copyright
Restrictions

The copyright law of the United States (title 17, United States Code) governs the reproduction, distribution, adaptation, public performance, and public display of copyrighted material.

Under certain conditions specified in law, nonprofit libraries are authorized to lend, lease, or rent copies of computer programs to patrons on a nonprofit basis and for nonprofit purposes. Any person who makes an unauthorized copy or adaptation of the computer program, or redistributes the loan copy, or publicly performs or displays the computer program, except as permitted by title 17 of the United States Code, may be liable for copyright infringement.

This institution reserves the right to refuse to fulfill a loan request if, in its judgment, fulfillment of the request would lead to violation of the copyright law.

(c) *Form and manner of use.* A Warning of Copyright for Software Rental shall be affixed to the packaging that contains the copy of the computer program, which is the subject of a library loan to patrons, by means of a label cemented, gummed, or otherwise durably attached to the copies or to a box, reel, cartridge, cassette, or other container used as a permanent receptacle for the copy of the computer program. The notice shall be printed in such manner as to be clearly legible, comprehensible, and readily apparent to a casual user of the computer program.

[56 FR 7812, Feb. 26, 1991, as amended at 66 FR 34373, June 28, 2001]

§ 201.25 Visual Arts Registry.

(a) *General.* This section prescribes the procedures relating to the submission of Visual Arts Registry Statements by visual artists and owners of buildings, or their duly authorized representatives, for recordation in the Copyright Office under section 113(d)(3) of title 17 of the United States Code, as

amended by Public Law 101-650, effective June 1, 1991. Statements recorded in the Copyright Office under this regulation will establish a public record of information relevant to an artist’s integrity right to prevent destruction or injury to works of visual art incorporated in or made part of a building.

(b) *Forms.* The Copyright Office does not provide forms for the use of persons recording statements regarding works of visual art that have been incorporated in or made part of a building.

(c) *Recordable statements—(1) General.* Any statement designated as a “Visual Arts Regulatory Statement” and which pertains to a work of visual art that has been incorporated in or made part of a building may be recorded in the Copyright Office provided the statement is accompanied by the fee for recordation of documents specified in section 708(a)(4) of title 17 of the United States Code. Upon their submission, the statements and an accompanying documentation or photographs become the property of the United States Government and will not be returned. Photocopies are acceptable if they are clear and legible. Information contained in the Visual Arts Registry Statement should be as complete as possible since the information may affect the enforceability of valuable rights under the copyright law. Visual Arts Registry Statements which are illegible or fall outside of the scope of section 113(d)(3) of title 17 may be refused recordation by the Copyright Office.

(2) *Statements by artists.* Statements by artists regarding a work of visual art incorporated or made part of a building should be filed in a document containing the head: “Registry of Visual Art Incorporated in a Building—Artist’s Statement.” The statement should contain the following information:

(i) Identification of the artist, including name, current address, age, and telephone number, if publicly listed.

(ii) Identification of the work or works, including the title, dimensions, and physical description of the work and the copyright registration number, if known. Additionally, it is recommended that one or more 8 x 10 photographs of the work on good quality