

## § 201.6

assign it a new registration number in the appropriate class, and issue a certificate of supplementary registration under that number.

(2) As provided in section 408(d) of title 17, the information contained in a supplementary registration augments but does not supersede that contained in the basic registration. The basic registration will not be expunged or cancelled.

(Pub. L. 94-553; 17 U.S.C. 205, 408(d), 601(b), 702, 708)

[43 FR 773, Jan. 4, 1978, as amended at 56 FR 59885, Nov. 26, 1991; 57 FR 60482, Dec. 21, 1992; 60 FR 34168, June 30, 1995; 62 FR 35421, July 1, 1997; 63 FR 59236, Nov. 3, 1998; 63 FR 66042, Dec. 1, 1998; 64 FR 29521, June 1, 1999; 65 FR 39819, June 28, 2000; 65 FR 48914, Aug. 10, 2000; 66 FR 34372, June 28, 2001]

### § 201.6 Payment and refund of Copyright Office fees.

(a) *In general.* All fees sent to the Copyright Office should be in the form of a money order, check or bank draft payable to the Register of Copyrights. Coin or currency sent to the Office in letters or packages will be at the remitter's risk. Remittances from foreign countries should be in the form of an International Money Order or Bank Draft payable and immediately negotiable in the United States for the full amount of the fee required. Uncertified checks are accepted subject to collection. Where the statutory fee is submitted in the form of a check, the registration of the copyright claim or other record made by the Office is provisional until payment in money is received. In the event the fee is not paid, the registration or other record shall be expunged.

(b) *Deposit accounts.* Persons or firms having a considerable amount of business with the Copyright Office may, for their own convenience, prepay copyright expenses by establishing a Deposit Account.

(c) *Refunds.* Money remitted to the Copyright Office for original, basic, supplementary or renewal registration will not be refunded if the claim is rejected because the material deposited does not constitute copyrightable subject matter or because the claim is invalid for any other reason. Payments made by mistake or in excess of the

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

statutory fee will be refunded, but amounts of \$50 or less will not be refunded unless specifically requested, and refunds of less than \$2 may be made in postage stamps. Before making any refund for fees remitted in relation to nonregistration copyright services, the Copyright Office shall deduct an administrative processing fee in an amount equivalent to one hour of the requested service, or the minimum fee set by statute for the service.

(d) *Return of deposit copies.* Copies of works deposited in the Copyright Office pursuant to law are either retained in the Copyright Office, transferred for the permanent collections or other uses of the Library of Congress, or disposed of according to law. When an application is rejected, the Copyright Office reserves the right to retain the deposited copies.

(17 U.S.C. 702, 708(c))

[24 FR 4955, June 18, 1959, as amended at 46 FR 25442, May 7, 1981; 56 FR 7813, Feb. 26, 1991; 59 FR 38371, July 28, 1994]

### § 201.7 Cancellation of completed registrations.

(a) *Definition.* Cancellation is an action taken by the Copyright Office whereby either the registration is eliminated on the ground that the registration is invalid under the applicable law and regulations, or the registration number is eliminated and a new registration is made under a different class and number.

(b) *General policy.* The Copyright Office will cancel a completed registration only in those cases where:

(1) It is clear that no registration should have been made because the work does not constitute copyrightable subject matter or fails to satisfy the other legal and formal requirements for obtaining copyright;

(2) Registration may be authorized but the application, deposit material, or fee does not meet the requirements of the law and Copyright Office regulations, and the Office is unable to get the defect corrected; or

(3) An existing registration in the wrong class is to be replaced by a new registration in the correct class.

(c) *Circumstances under which a registration will be cancelled.* (1) Where the Copyright Office becomes aware after

registration that a work is not copyrightable, either because the authorship is *de minimis* or the work does not contain authorship subject to copyright, the registration will be cancelled. The copyright claimant will be notified by correspondence of the proposed cancellation and the reasons therefor, and be given 30 days, from the date the Copyright Office letter is mailed, to show cause in writing why the cancellation should not be made. If the claimant fails to respond within the 30 day period, or if the Office after considering the response, determines that the registration was made in error and not in accordance with title 17 U.S.C., Chapters 1 through 8, the registration will be cancelled.

(2) When a check received in payment of a registration fee is returned to the Copyright Office marked "insufficient funds" or is otherwise uncollectible the Copyright Office will immediately cancel any registration(s) for which the dishonored check was submitted and will notify the remitter the registration has been cancelled because the check was returned as uncollectible.

(3) Where registration is made in the wrong class, the Copyright Office will cancel the first registration, replace it with a new registration in the correct class, and issue a corrected certificate.

(4) Where registration has been made for a work which appears to be copyrightable but after registration the Copyright Office becomes aware that, on the administrative record before the Office, the statutory requirements have apparently not been satisfied, or that information essential to registration has been omitted entirely from the application or is questionable, or correct deposit material has not been deposited, the Office will correspond with the copyright claimant in an attempt to secure the required information or deposit material or to clarify the information previously given on the application. If the Copyright Office receives no reply to its correspondence within 30 days of the date the letter is mailed, or the response does not resolve the substantive defect, the registration will be cancelled. The correspondence will include the reason for the cancellation. The following are instances where a completed registration

will be cancelled unless the substantive defect in the registration can be cured:

(i) Eligibility for registration has not been established;

(ii) A work published before March 1, 1989, was registered more than 5 years after the date of first publication and the deposit copy or phonorecord does not contain a statutory copyright notice;

(iii) The deposit copies or phonorecords of a work published before January 1, 1978 do not contain a copyright notice or the notice is defective;

(iv) A renewal claim was registered after the statutory time limits for registration had apparently expired;

(v) The application and copy(s) or phonorecord(s) do not match each other and the Office cannot locate a copy or phonorecord as described in the application elsewhere in the Copyright Office or the Library of Congress;

(vi) The application for registration does not identify a copyright claimant or it appears from the transfer statement on the application or elsewhere that the "claimant" named in the application does not have the right to claim copyright;

(vii) A claim to copyright is based on material added to a preexisting work and a reading of the application in its totality indicates that there is no copyrightable new material on which to base a claim;

(viii) A work subject to the manufacturing provisions of the Act of 1909 was apparently published in violation of those provisions;

(ix) For a work published after January 1, 1978, the only claimant given on the application was deceased on the date the application was certified;

(x) A work is not anonymous or pseudonymous and statements on the application and/or copy vary so much that the author cannot be identified; and

(xi) Statements on the application conflict or are so unclear that the claimant cannot be adequately identified.

(d) *Minor substantive errors.* Where a registration includes minor substantive errors or omissions which would generally have been rectified before registration, the Copyright Office will attempt to rectify the error

## § 201.8

## 37 CFR Ch. II (7–1–02 Edition)

through correspondence with the remitter. Except in those cases enumerated in paragraph (c) of this section, if the Office is unable for any reason to obtain the correct information or deposit copy, the registration record will be annotated to state the nature of the informality and show that the Copyright Office attempted to correct the registration.

[50 FR 40835, Oct. 7, 1985, as amended at 60 FR 34168, June 30, 1995; 65 FR 39819, June 28, 2000; 66 FR 34372, June 28, 2001]

### **§ 201.8 Disruption of postal or other transportation or communication services.**

(a) For purposes of 17 U.S.C. 709, when the Register has determined that there is or has been a general disruption or suspension of postal or other transportation or communications services that has delayed the receipt by the Copyright Office of deposits, applications, fees, or any other materials, the Register shall publish an announcement of that determination, stating the date on which the disruption or suspension commenced. The announcement may, if appropriate, limit the means of delivery that are subject to relief pursuant to section 709. Following the cessation of the disruption or suspension of services, the Register shall publish an announcement stating the date on which the disruption or suspension has terminated.

(b) At the request of any person who provides satisfactory evidence that he or she has attempted to deliver a deposit, application, fee or other material to the Copyright Office but that receipt by the Copyright Office was delayed due to a general disruption or suspension of postal or other transportation or communications services, the Register shall assign, as the date of receipt of the deposit, application, fee or other material, the date on which the Register determines the material would have been received but for the disruption or suspension of services, if the deposit, application, fee or other material was actually received in the Copyright Office within one month after the disruption or suspension of services has terminated.

(c) *Timing.* The request shall be made:

(1) With respect to an application for copyright registration, no earlier than the date on which the claimant receives the certificate of registration and no later than one year after the date on which the claimant receives the certificate of registration; provided, however, that a request may be made prior to receipt of a certificate of registration—

(i) If the Copyright Office has communicated with the claimant relating to the application and the claimant makes the request as part of a response to the communication from the Office; or

(ii) If the Register determines that good cause exists to entertain a request prior to the issuance of a certificate of registration;

(2) With respect to a transfer of copyright ownership or other document submitted for recordation pursuant to 17 U.S.C. 205, no later than one year after the date on which the person submitting the transfer or document receives the certificate of recordation;

(3) With respect to any other material, no later than one year after the date on which the material was actually received in the Copyright Office.

(d) In cases in which a certificate of registration or a certificate of recordation has already been issued, the original certificate must be returned to the Copyright Office along with the request.

(e) For purposes of paragraph (b) of this section, satisfactory evidence shall consist of:

(1) A receipt from the United States Postal Service indicating the date on which the United States Postal Service received material for delivery to the Copyright Office by means of first class mail, Priority Mail or Express Mail;

(2) A receipt from a delivery service such as, or comparable to, United Parcel Service, Federal Express, or Airborne Express, indicating the date on which the delivery service received material for delivery to the Copyright Office and

(i) The date on which delivery was to be made to the Copyright Office, or

(ii) The period of time (e.g., overnight, or 2 days) from receipt by the delivery service to the date on which