

Announcement

from the Copyright Office, Library of Congress, Washington, D.C. 20559

Motion Picture Soundtracks

The following excerpt is taken from Volume 40, Number 54 of the Federal Register for Wednesday, March 19, 1975:

Title 37—Patents, Trademarks, and Copyrights

CHAPTER II—COPYRIGHT OFFICE, LIBRARY OF CONGRESS

PART 202—REGISTRATION OF CLAIMS TO COPYRIGHT

Motion Picture Soundtracks

These amendments to the regulations of the Copyright Office are intended to adopt, for purposes of deposit and registration only, an affirmative position that a sound motion picture is an entity, and that any copyrightable component part of a motion picture soundtrack is considered an integral part of the motion picture as a whole. The present Regulations of the Copyright Office are silent on this point. However, paragraph 2.14.1 (III) of the Compendium of Copyright Office Practices (1973 edition) states that "The Copyright Office takes no position as to whether copyright in a motion picture covers the integrated sound track portions of the work," and that "[r]egistration is not made for a sound track alone, or for a sound track as the only new matter in a previously published or registered motion picture."

On the basis of a thorough legal review and analysis of the status of motion picture soundtracks under the copyright statute, the Copyright Office has concluded that, under the prevailing judicial view, copyright in a motion picture extends to an integrated soundtrack and its copyrightable component parts. Thus, after the effective date of this amendment to the Regulations, and for deposit and registration purposes only, the Copyright Office is revising its practices in accordance with its conclusion. This amendment is entirely prospective in operation, and is not intended to affect in any way the validity or legal efficacy of registrations made or other actions taken in accordance with the earlier practices of the Copyright Office.

The amendment adds a new paragraph (e) to § 202.15, and revises paragraph (c) of § 202.15a, of the Regulations of the Copyright Office (Chapter II of Title 37, Code of Federal Regulations). Paragraph (e)(1) of § 202.15 declares the principle that, for purposes of copyright registration and deposit, a motion picture is considered an entity, and any copyrightable component parts of the motion picture soundtrack are covered by registration for the motion picture as a whole. This also means that, where the soundtrack of a revised version of a motion picture includes copyrightable "new matter," it will be possible for registration to be made solely on the basis of that "new matter."

Paragraph (e)(2) permits separate registration for a copyrightable component part of a motion picture not previously published or registered, but only if the motion picture bears a separate copyright notice covering the particular component part. In such a case separate registration could be made on the basis of a deposit of two complete copies of the part transcribed legibly from the soundtrack in accordance with the applicable Library of Congress acquisitions policy statement.

However, paragraph (e)(3) makes clear that, after the effective date of this amendment, the Copyright Office will not make separate registration for any component part of a motion picture soundtrack, where the motion picture has been published without a separate copyright notice covering that part.

Paragraph (e)(4) provides that the amendment applies only to applications submitted for registration on or after the effective date, which is May 12, 1975. It also makes clear that the Office's present practices with respect to renewal registration are not affected: A renewal application covering a component part of a motion picture soundtrack will be

accepted if, but only if, separate registration for the part had been made for the first 28-year term of copyright.

Finally, revised paragraph (c) of § 202.15a makes clear that sound recordings registrable in Class N do not include the integrated soundtrack of a motion picture.

Interested persons may submit written comments, suggestions, or arguments to the General Counsel of the Copyright Office, Library of Congress, Washington, D.C. 20559 on or before May 5, 1975. Material thus submitted will be evaluated and considered in making any determination as to whether or not to postpone the effective date of the Regulation or to revise the text.

In consideration of the foregoing, and unless a further contrary notice is published, Part 202 of Chapter II of Title 37 of the Code of Federal Regulations is amended, effective May 12, 1975, in the manner set forth below.

1. Section 202.15 of Chapter II of Title 37 of the Code of Federal Regulations is amended by adding a new paragraph (e) reading as follows:

§ 202.15 Motion Pictures (Classes L-M).

(e) (1) For purposes of deposit and registration only, any copyrightable component part of a motion picture soundtrack (e.g., a musical composition) is considered an integral part of a motion picture. Registration of any copyrightable component part of a motion picture soundtrack may be made by registration of the motion picture in accordance with the provisions of sections 12 and 13 of Title 17, U.S. Code.

(2) Where any copyrightable component part of a motion picture soundtrack has not previously been published or registered and is contained in a motion picture submitted for registration pursuant to section 13, Title 17, U.S. Code, separate registration of such copyrightable component part will be permitted only if a separate copyright notice relating to such part is placed on the motion picture. In this event the Register of Copyrights will waive his authority under section 14 to require deposit of two complete copies of such copyrightable component part, and will accept for purposes of deposit under section 13, two

complete copies transcribed or reproduced from the motion picture in a form that in the opinion of the Register of Copyrights most closely conforms to the established criteria of the Library of Congress acquisitions policy statement in effect at the time of deposit. The Copyright Office will furnish to any person concerned, upon request, a copy of the pertinent Library of Congress acquisitions policy statement then in effect.

(3) Separate registration will be refused for any component part of a motion picture soundtrack published without a separate copyright notice, whether registration is applied for as an unpublished work under section 12 of Title 17 U.S. Code, or as a published work in accordance with section 13 of Title 17, U.S. Code.

(4) The provisions of the preceding subparagraphs shall not apply to any copyrightable component part of a motion picture soundtrack for which application for copyright registration has been made to the Copyright Office prior to May 12, 1975. However, applications to register a claim to copyright in a component part of a motion picture soundtrack for the renewal term shall be accepted only if separate registration has first been made for the original term.

2. In § 202.15a, paragraph (c) is revised to read as follows:

§ 202.15a Sound Recordings (Class N).

(c) Sound recordings registrable in Class N do not include a soundtrack that is an integrated part of a motion picture. Registration for motion pictures, including an integrated soundtrack, is made in Class L or M; see § 202.15.

(Sec. 207, 61-Stat. 666; 17 U.S.C. 207)

Dated: March 11, 1975.

BARBARA RINGER,
Register of Copyrights.

Approved:

JOHN G. LORENZ,
Acting Librarian of Congress.

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