Announcement

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

FINAL REGULATION

TERMINATION OF TRANSFERS AND LICENSES COVERING EXTENDED RENEWAL TERM

The following excerpt is taken from Volume 42, No. 177 of the Federal Register for Tuesday, September 13, 1977 (pp. 45916-21).

Title 37—Patents, Trademarks and Copyrights

CHAPTER II—COPYRIGHT OFFICE, LIBRARY OF CONGRESS

[Docket RM 76-1; Rules Doc. C]

PART 201—GENERAL PROVISIONS

Termination of Transfers and Licenses Covering Extended Renewal Term

AGENCY: Library of Congress, Copyright Office.

ACTION: Final regulation.

SUMMARY: This notice is issued to inform the public that the Copyright Office of the Library of Congress is adopting a new regulation pertaining to the termination of transfers and licenses covering the extended renewal term of copyright. The regulation is adopted to implement section 304(c) of the Act for General Revision of the Copyright Law. The effect of the regulation is to establish requirements governing the form, content, service, and recordation of the notices of termination identified in that section.

EFFECTIVE DATE: This regulation takes effect on October 13, 1977.

FOR FURTHER INFORMATION CONTACT:

Jon Baumgarten, General Counsel, Copyright Office, Library of Congress, Washington, D.C. 20559 (703-557-8731).

SUPPLEMENTARY INFORMATION: Under section 304(c) of Title 17, as amended (90 Stat. 2541), the exclusive or nonexclusive grant of a transfer or license of a renewal copyright executed before January 1, 1978 is subject to termination in certain cases. Termination is effected by serving a notice of termination in writing upon the grantee or the grantee's successor in title under conditions specified in the law. Among other conditions, the notice of termination is to comply in form, content and manner of service with requirements that the Register of Copyrights shall prescribe by regulation." A copy of the notice of termination shall be recorded in the Copyright Office before the effective date of termination, as a condition to its taking effect.

On November 15, 1976 we published in the Federal Register (41 FR 50360) a proposal to adopt a new regulation § 201.10 establishing requirements governing the form, content, service, and recordation of notices of termination. A number of comments were received in response to that proposal. On January 24, 1977 we published in the Federal Register (42 FR 4134) a notice extending the time to comment, specifically to "permit comment upon, reply to, or reconciliation of the comments already received. * * *" Several additional comments were received under the extension of time, included among these were "Joint Reply Comments" submitted by several parties who, in their initial comments, had expressed substantially different views on certain aspects of our proposal.[1]

All comments filed in this proceeding have been well-reasoned and cogently presented. We particularly appreciate the efforts made by the signatories to the Joint Reply Comments, in their words, to "assist the Copyright Office in reconciling the positions taken by the parties in their opening comments." We have not, however, considered ourselves bound by any positions taken, or understandings among, the commenting parties. We have sought to evaluate and modify the proposed regulation in light of all comments received, and several of these comments have led us to make substantive changes from the proposed regulation. A discussion of the major substantive comments follows:

1. The Service of Notices of Termination Before January 1, 1978

The Preamble to our Notice of Proposed Rulemaking stated:

Section 304(c) expressly refers to the possibility of termination of grants during specified periods beginning on January 1, 1978, and requires the serving of notices "not less than two or more than ten years" before the effective date of termination. Thus, a reasonable interpretation would permit the serving of certain termination notices before January 1, 1978.

Several comments objected to this statement and argued that, under the Transitional and Supplementary provisions of the new Copyright Act, termination notices cannot be effectively served or recorded before January 1, 1978.

We recognize that there are arguments on both sides regarding the effectiveness of service or recordation of a termination notice before January 1, 1978. The statement in our Notice of Proposed Rulemaking, quoted above, was intended only to express our view that one reasonable interpretation of the Act would permit such service and recordation. We did not mean to imply that it was the only reasonable interpretation. The validity of pre-January 1, 1978 notices is one reasonable conclusion, and it must therefore be considered to be possible for a court to reach that result. Since section 304(c)(4)(A) of the Act requires termination notices to comply with Copyright Office regulations regarding form, content, and manner of service, our failure to issue these regulations and make them effective before January 1, 1978, could effectively prevent the question from ever coming before a court. We do not believe that our failure to issue regulations effective before January 1, 1978, should have the effect of preventing parties from serving and recording formally proper notices before that date and, if called upon, supporting their substantive validity before the courts.

[1] The Joint Reply Comments were submitted by the Authors League of America, Inc., the National Music Publishers Association, the American Guild of Authors and Composers, Columbia Pictures Industries, Inc., MCA Inc., Metro-Goldwyn-Mayer, Inc., Paramount Pictures Corp., United Artists Corp., Twentieth Century-Fox Film Corp., Walt Disney Prods., Inc. Other parties commenting in this proceeding were: M. William Krasilovsky, Esq., W. Michael Cleary, Esq., Association of American Publishers, Inc., Walt Disney Productions, Charles R. Brainard, Esq., Society of Authors Representatives, Inc., Commission on Federal Paperwork, and Music Publishers Assn., Inc.

We therefore adhere to the position just expressed. In making the termination notice regulation effective before January 1, 1978 it is our intent to permit compliance with certain sections of the statute by parties who believe they may serve and record termination notices before that date. The regulation does not purport to pass upon the validity or effectiveness of notices served or recorded before January 1, 1978.

2. Identification of the Work in Which Rights are Being Terminated

Our proposed regulation had required that a notice of termination identify the "title of each work covered by the grant being terminated, the name of at least one author of each such work, and, if possible and practicable, the renewal registration number for each such work." Several comments suggested that, since the period during which termination may be effected is measured from the date copyright was originally secured, the facts of original rather than renewal registration and the date copyright was originally secured would be preferable. We have accepted this suggestion and modified § 201.10(b)(ii) accordingly. However, a new paragraph (e)(2), discussed below, has been added to make clear that errors made in giving the date copyright was secured or the original registration number "made in good faith and without any intention to deceive, mislead, or conceal relevant information" will not affect the validity of the notice.

One comment suggested that, if the notice does not include the registration number, it must include a brief explanation of the absence of that information. However, the registration number is intended to serve only as a means of possible assistance to persons receiving a notice of termination in identifying the work to which the notice applies. It is not itself a substantive condition of termination and does not directly affect such matters as the adequacy of service or execution of the notice, or the time periods within which service may be made or termination effected. Under these circumstances, we do not believe it appropriate to burden the notice with an additional requirement which may ultimately become a source of confusion, error, or challenge.

One comment also suggested that, rather than requiring the name of "at least one author," as originally proposed, the regulations require the names of all authors of the work. We have not adopted this suggestion. The name of at least one author of the work will generally be sufficient for purposes of identifying the work. Under section 304(c) of the Act, the preparation of notice of termination will be occurring at a time far removed from the original creation and publication of a work and, in many cases, will involve successors of original authors having little, if any, knowledge of the details of original creation or publication. We do not believe it necessary to require the names of all authors in a provision directed only to identification of the work itself. Although it was asserted that the names of all authors are required for purposes other than identification of the work—namely, to "determine whether the proper parties have joined in the notice"—we do not agree. Under section 304(c) a notice terminating a grant made by more than one author may be effected as to any particular author's share in the work. There is no requirement of unanimity, majority interest, or the like, among granting co-authors. Another argument in favor of identifying all co-authors was that this information would be needed to determine whether the grantee might continue using the work on a non-exclusive basis under a grant from a non-terminating co-author. However helpful such information might be to those receiving termination of notices, this has nothing to do with the effectiveness of a termination notice served by those authors (or their successors), who do wish to terminate rights in a work to the extent of their share.

3. Identification of the Grant Being Terminated

Our proposed regulation required that a notice of termination state "the date of execution of the grant being terminated." Several objections were made by representatives of authors and composers to this proposal. It was noted that, since section 304(c) does not measure the period of permissible termination or service from the date of the grant, that date is not necessary to determine whether the notice can be served or whether the date of termination is correct. These representatives also pointed out that it will commonly be the case that the terminating author, or the terminating renewal claimant, widow, widower, children or grandchildren of a deceased author, will not have a copy of the grant or ready access to a copy. These objections are persuasive, and the final regulation does not require the date of grant.

For similar reasons, we have not adopted suggestions that the termination notice state the location of the grant document or include an offer to produce it, or that a copy of the grant be attached to the notice. Also, our original proposal that the notice identify "the names of persons who executed the grant" has been deleted from the identification of grant paragraph. (In particular cases, the names of some or all of the persons executing the grant may become necessary under other paragraphs of the regulation.)

Instead of the proposed and suggested date, name, location, and copy requirements just discussed, paragraph (b)(iii) of the final regulation requires that the notice include "a brief statement reasonably identifying the grant to which the notice of termination applies." This provision, supported in the Joint Reply Comments, also replaces our proposed requirement that the notice state "the nature of the grant and the rights covered by it". As pointed out in the original comments of the Authors League of America, the concepts of defining the "nature" of a grant and the "rights" conveyed can lead to unnecessary technical disputes, even among experts in the field. The requirement of "reasonable identification" in the final regulation is sufficient to meet our purpose and can be accommodated to varying factual and legal situations. Of course, there would be nothing to prevent a terminating party who wished to do so from including the date of execution, names of parties, or a copy of the contract in the notice under this paragraph.

4. Additional Information

In our Notice of Proposed Rulemaking we stated that the proposed regulation "attempts to avoid the imposition of costly or burdensome requirements while, at the same time, giving the grantee and the public a reasonable opportunity to identify the affected grant and work from the information given in the notice." However, representatives of motion picture companies, who will frequently be in the position of receiving termination notices, argued that the notices should perform an additional function, namely, the providing of information necessary to give notice recipients some assurance that the conditions established in the Act for effective termination have been met. The Act does provide that (i) in the case of grants executed by persons other than the author, termination may only be effected by joint action of all surviving grantors; and (ii) in the case of grants executed by authors since deceased, termination must be effected by those of the author's surviving widow or widower, children and grandchildren who constitute more than one-half of that author's termination interest. Accordingly, the representatives of motion picture companies argued that the notice should include a complete listing of the original grantors (if other than the author) or of the surviving authors of the work and the widow or widower, children and grandchildren of deceased authors, together with an indication of those persons serving the notice who constitute more than one-half of the author's termination interest.

After careful consideration we concluded that, within limits, the providing of information related to compliance with these conditions is justified.[2] Moreover, since the Act itself requires the notice to be signed by or on behalf of all persons necessary to effect the termination, the providing of such information can reasonably be required under our authority to determine the "content" of the notice. At the same time, however, we remain convinced that the required contents of the notice must not become unduly burdensome to grantors, authors, or their successors, and must recognize that entirely legitimate reasons may exist for gaps in their knowledge and certainty.

In light of these considerations we have decided to require certain listings of grantors and author's successors in paragraph (b)(1)(v) of the final regulation. However, this "requirement" is subject to several important qualifications:

(a) We have not accepted the suggestion, implicit in language proposed by the motion picture companies, that when termination is sought of a grant executed by more than one author, the notice must include a list of all surviving authors and the widow or widower, children and grandchildren of any deceased author. As noted in paragraph 2 of this preamble, termination of a grant made by more than one author under section

[2] The Joint Reply Comments would have us require such lists, but then provide that a failure to include them has no effect. This would render the provision nugatory and the "requirement" meaningless, and we have therefore not accepted this suggestion.

304(c) may be effected by any of the granting authors, or that author's survivors, to the extent of that author's share. Additional information may be useful to recipients of termination notices but, when termination is sought as to one author's share, information as to other, non-terminating, surviving authors or the successors of other deceased authors is not related to compliance with the statutory conditions of termination. Accordingly, paragraph (b)(1)(v) of the final regulation requires a listing only of the statutory successors to that deceased author whose interest in the grant is being terminated.

(b) As an alternative to providing the listings, paragraph (b)(1)(v) will permit the notice to include both a statement of as much information as is currently available to terminating parties, with a brief explanation of why full information may be lacking, and an assertion that, to their best knowledge and belief, the notice has been signed by all required parties. Use of the word "currently," is intended to avoid any implication that this paragraph of the regulation itself requires that terminating parties first conduct an investigation.

(c) Under paragraph (e) of the final regulation, harmless or good-faith errors in providing the lists or giving the alternative explanation and assertion will not affect the validity of the notice.

The original comments of several motion picture companies also urged that we require the notice to include statements that the grant being terminated was not made by will and that the work was not made for hire. Although testamentary grants and works made for hire are excluded from section 304(c), we have not adopted this suggestion. There is no real reason to believe that recipients of termination notices will rely on such statements rather than on their own review of the nature of the work and grant. Moreover, in making such a review the relevant information may well be expected to be at least equally available to grantees as to original grantors, authors, or their successors. Under such circumstances, the requirement suggested in the comments would amount to a ritualistic formality serving no real purpose.

5. Signature

Following suggestions made in the Joint Reply Comments, paragraph (c) of § 202.10 has been revised to follow the language and intent of the statute as to the signatures required of a notice of termination. The alternative provision of paragraph (b)(1)(v), discussed above in item (4) of this preamble is not intended to affect these statutory requirements. Section 202.10(b)(1)(v) only provides an alternative to other requirements regarding the contents of the notice; whether the notice has been properly executed must be determined by the Act.

The final regulation also requires that the signature of an authorized agent clearly identify the person or person on whose behalf the agent is acting. One comment suggested that notices signed by agents be accompanied by an explanation of why the principal did not sign, and a statement of the agent's "source of authority"; another suggested that agents be required to certify their agency and authority under oath. Since the person on whose behalf an agent is acting must clearly be identified under paragraph (c)(3) of § 202.10 we consider these additional requirements unnecessary. The Act indicates no preference for a terminating party's own signature over that of an agent, nor does it suggest disfavor of an agent's participation in the decision to terminate.

To ensure clarity, paragraph (c)(4) of § 201.10 contains a new provision that the notice include a typewritten or legibly hand printed statement of the full names and addresses of the parties or agents signing the notice.

Paragraph (c)(2) requires that in certain cases where termination is exercised by the successors of a deceased author, the signature of those successors, or of their authorized agents, be accompanied by a "brief statement of their relationship or relationships to that author." This provision earlier appeared as § 201.10(b)(1)(v) of our proposed regulation. It is not intended to require any more than, for example, categorization as "widow", "widower", "child", or "grandchild" of the deceased author.

6. Service; "Successors in Title"

A substantial number of comments revolved around the following portion of section 304(c)(3)* of the Act: "The termination shall be effected by serving an advance notice in writing upon the grantee or the grantee's successor in title." The comments raised essentially two issues: (a) Who is a "successor in title" to a grantee; and (b) where there is a "successor in title", who must be served?

(a) "Who is a successor in title"?

The comment letters appear to offer two interpretations of the phrase "successor in title". Under one interpretation a "successor in title" to a grantee is only one who has acquired from that grantee all of the rights originally acquired by that grantee, for the identical duration as originally acquired and without qualification. Under another interpretation, one who acquires from a grantee any one or portion of the rights originally acquired by that grantee is a "successor in title" as to that right or portion.

The phrase "successor in title" is not defined in the new Copyright Act. However relevant it may be to judicial inquiry or legal advice, it is not appropriate for us to conclude in this proceeding that the phrase "successor in title" necessarily has or does not have a meaning related to the definitions of "copyright owner" or "transfer of copyright ownership" in section 101 of the Act, or to consider the meaning and significance of "successor in title" as used in other areas of law which may be analogous or relevant. This Office's actions in deciding whether or not to record a copy of a notice of termination, for example, will generally not involve an investigation as to whether the persons identified in the notice have been properly categorized. Accordingly, we have modified the proposed regulation only to substitute the statutory term "successor in title" where we had originally proposed the word "successor"; we have not adopted an interpretation of this phrase.

(b) Where there is a "successor in title", who must be served?

Assuming there is a "successor in title" to a grantee, the comments indicated considerable uncertainty as to whether either one of or both of the "grantee" and "successor in title" must be served. Representatives of authors and composers, for example, pointed to the Act's use of the word "or" and expressed concern lest they be required to serve successors in title of whom they lacked knowledge in order to recapture the rights held by the successor. We agree that, whether or not the original grantee is still exploiting rights in a work, there are cases where author and composers are not aware of others holding rights in the work under a successorship to the original grantee. For example: the successor may not be actively exploiting the work; or no royalties may be owing to the author; or royalty statements may not separately identify sources of revenue; or the author's consent may not have been required for the successor's acquisition of rights; or a relevant document may not be recorded in the Copyright Office.

Representatives of producers and publishers, however, argued that use of the word "or" in the Act did not offer a complete option to parties serving termination notices and expressed concern over the possibility that their rights could be terminated by service of their predecessors in title and without their knowledge. We also agree that this does pose risks of liability and may generate an unfortunate lack of business certainty.

Section 201.10(d) of the final regulation attempts to deal with this problem. With considerable support in the comments from several parties who desired some guidance in this matter, paragraph (2) of this section provides that the service requirements of the Act are satisfied if a reasonable investigation is first made by the terminating parties and if: (i) The notice is served upon the grantee where the investigation does not give reason to believe there is a successor in title; or (ii) the notice is served upon the successor in title where the investigation does give reason to believe there is a particular successor in title. Paragraph (3) then defines certain elements to be included in a "reasonable investigation".

In order to avoid possible conflict with the literal language of the Act, paragraph (4) of § 201.10(d) contains an important qualification. This paragraph makes it clear that the regulations in paragraphs (2) and (3) of the section do not themselves impose an obligation on terminating parties to conduct a reasonable investigation, or to serve persons disclosed by such an investigation. If an investigation is not conducted, or if it does disclose (or would have disclosed) a successor in title who is not served, our

* Error; correct section: 304 (c) (4).

regulations do not purport to question the validity of service. In cases where § 202.10(d) (2) or (3) have not been followed, any questions as to the validity of service are left solely to interpretation and application of 17 U.S.C. 304(c) (4) in other forums.

Two comments suggested that we require service by mail to be registered or certified. We have not accepted this suggestion. A requirement that service be effected by registered or certified mail might lead to totally inadvertant mistakes, and substantively insignificant grounds of avoiding or challenging termination. Moreover the provisions of the final regulation dealing with recordation provide a basis for making of a record of service. Although we recognize that this is not a complete answer, since recordation might occur considerably later than service, we are not persuaded that registered or certified mail should be made a requirement.

7. Errors

Paragraph (e) (1) of the final regulation is new. It adopts a suggestion made in the initial comments of the Authors League of America, Inc., and later endorsed in the Joint Reply Comments, that "harmless errors" in a notice of termination shall not render the notice invalid. Additionally, the final regulation requires specific items of information that, in some cases, were not in our proposal. We do not intend that the validity of notices of termination should be subject to disputes over whether errors concerning these specific items are "harmless." Accordingly, we have added a new paragraph (e) (2) to make clear that errors made in connection with this information will not affect the validity of the notice if they were made in good faith and without intent to deceive, mislead, or conceal information.

8. Recordation

Several comments suggested that the final regulations should provide some demonstration of the facts of service. As suggested in the Joint Reply Comments, we have added a new paragraph (ii) to § 201.10(f) (1) requiring that the copy of the notice submitted for recordation be accompanied "by a statement setting forth the date on which the notice was served and the manner of service, unless such information is contained in the notice."

This information need not appear in the notice itself, and inclusion is not a condition of a valid notice. However, the Copyright Office will not record a copy of a notice of termination unless a proper statement as required in this paragraph is submitted to accompany it. Changes have also been made in the provisions of the final regulation dealing with the fee and date of recordation, to reflect this requirement.

The Joint Reply Comments urged the Copyright Office to give "notice of recordation * * * to all parties named in the notice." Even if not considered a condition of effective termination or recordation, such a provision would impose upon the Copyright Office in an affirmative responsibility which was not contemplated by the Act and which we are not prepared or equipped to undertake. Of course, our records of recorded copies of termination notices will be fully open to public inspection. Moreover, the search services of the Office will be available to interested parties and our search personnel will extend full cooperation and assistance in responding to requests for periodic or other specially-structured search reports.

We have amended paragraph (f) (1) (i) of § 201.10 to make it clear that the copy submitted for recordation must "include the actual signature or signatures, or a reproduction of the actual signature or signatures, appearing" on the notice as served. This requirement was also contemplated by our original proposal, which provided that the copy be a "complete and exact duplicate of the notice as served." However, some question was raised on the point in one comment, and we have therefore decided to mention the signature requirement expressly. Although the comment suggested that the copy need not bear the signatures, the significance of signature under the Act has led us to conclude otherwise.

Paragraph (4) of § 201.10(f) is new, and reflects a point made in several comments: That the act of the Copyright Office in recording a copy of a notice of termination does not accord that notice any presumption of validity. Although this point is rather clear from the statute itself, sufficient concern was expressed to justify stating it expressly in the regulation.

One comment suggested that we add a new section to permit the filing of "notices of dispute of termination", containing specific information, by grantees or successors in title who challenge a notice of termination. As the statute does not specifically provide for such notices, or attach any consequences to their recordation, we have not adopted this suggestion.

Part 201 of 37 CFR Chapter II is amended by adding a new § 201.10 to read as follows:

§ 201.10 Notices of termination of transfers and licenses covering extended renewal term.

(a) *Form.* The Copyright Office does not provide printed forms for the use of persons serving notices of termination.

(b) *Contents.* (1) A notice of termination must include a clear identification of each of the following:

(i) The name of each grantee whose rights are being terminated, or the grantee's successor in title, and each address at which service of the notice is being made;

(ii) The title and the name of at least one author of, and the date copyright was originally secured in, each work to which the notice of termination applies; and, if possible and practicable, the original copyright registration number;

(iii) A brief statement reasonably identifying the grant to which the notice of termination applies;

(iv) The effective date of termination; and

(v) In the case of a termination of a grant executed by a person or persons other than the author, a listing of the surviving person or persons who executed the grant. In the case of a termination of a grant executed by one or more of the authors of the work where the termination is exercised by the successors of a deceased author, a listing of the names and relationships to that deceased author of all of the following, together with specific indication of the person or persons executing the notice who constitute more than one-half of that author's termination interest: That author's surviving widow or widower; and all of that author's surviving children; and, where any of that author's children are dead, all of the surviving children of any such deceased child of that author; however, instead of the information required by this subdivision (v), the notice may contain both of the following: (A) A statement of as much of such information as is currently available to the person or persons signing the notice, with a brief explanation of the reasons why full information is or may be lacking; together with (B) a statement that, to the best knowledge and belief of the person or persons signing the notice, the notice has been signed by all persons whose signature is necessary to terminate the grant under section 304(c) of title 17, U.S.C., or by their duly authorized agents.

(2) Clear identification of the information specified by paragraph (b) (1) of this section requires a complete and unambiguous statement of facts in the notice itself, without incorporation by reference of information in other documents or records.

(c) *Signature.* (1) In the case of a termination of a grant executed by a person or persons other than the author, the notice shall be signed by all of the surviving person or persons who executed the grant, or by their duly authorized agents.

(2) In the case of a termination of a grant executed by one or more of the authors of the work, the notice as to any one author's share shall be signed by that author or by his or her duly authorized agent. If that author is dead, the notice shall be signed by the number and proportion of the owners of that author's termination interest required under clauses (1) and (2) of section 304(c) of title 17, U.S.C., or by their duly authorized agents, and shall contain a brief statement of their relationship or relationships to that author.

(3) Where a signature is by a duly authorized agent, it shall clearly identify the person or persons on whose behalf the agent is acting.

(4) The handwritten signature of each person effecting the termination shall either be accompanied by a statement of the full name and address of that person, typewritten or printed legibly by hand, or shall clearly correspond to such a statement elsewhere in the notice.

(d) *Service.* (1) The notice of termination shall be served upon each grantee whose rights are being terminated, or the grantee's successor in title, by personal service, or by first-class mail sent to an address which, after a reasonable investigation, is found to be the last known address of the grantee or successor in title.

(2) The service provision of section 304(c)(4) of title 17, U.S.C., will be satisfied if, before the notice of termination is served, a reasonable investigation is made by the person or persons executing the notice as to the current ownership of the rights being terminated, and based on such investigation: (i) If there is no reason to believe that such rights have been transferred by the grantee to a successor in title, the notice is served on the grantee; or (ii) if there is reason to believe that such rights have been transferred by the grantee to a particular successor in title, the notice is served on such successor in title.

(3) For purposes of subparagraph (2) of this paragraph (d), a "reasonable investigation" includes, but is not limited to, a search of the records in the Copyright Office; in the case of a musical composition with respect to which performing rights are licensed by a performing rights society, as defined by section 116(e)(3) of title 17, U.S.C., a "reasonable investigation" also includes a report from that performing rights society identifying the person or persons claiming current ownership of the rights being terminated.

(4) Compliance with the provisions of clauses (2) and (3) of this paragraph (d) will satisfy the service requirements of section 304(c)(4) of title 17, U.S.C. However, as long as the statutory requirements have been met, the failure to comply with the regulatory provisions of subparagraph (2) or (3) of this paragraph (d) will not affect the validity of the service.

(e) *Harmless errors.* (1) Harmless errors in a notice that do not materially affect the adequacy of the information required to serve the purposes of section 304(c) of title 17, U.S.C., shall not render the notice invalid.

(2) Without prejudice to the general rule provided by subparagraph (1) of this paragraph (e), errors made in giving the date or registration number referred to in paragraph (b)(1)(ii) of this section, or in complying with the provisions of paragraph (b)(1)(v) of this section, or in describing the precise relationships under clause (2) of paragraph (c) of this section, shall not affect the validity of the notice if the errors were made in good faith and without any intention to deceive, mislead, or conceal relevant information.

(f) *Recordation.* (1) A copy of the notice of termination will be recorded in the Copyright Office upon payment of the fee prescribed by subparagraph (2) of this paragraph (f) and upon compliance with the following provisions:

(i) The copy submitted for recordation shall be a complete and exact duplicate of the notice of termination as served and shall include the actual signature or signatures, or a reproduction of the actual signature or signatures, appearing on the notice; where separate copies of the same notice were served on more than one grantee or successor in title, only one copy need be submitted for recordation; and

(ii) The copy submitted for recordation shall be accompanied by a statement setting forth the date on which the notice was served and the manner of service, unless such information is contained in the notice.

(2) For a document consisting of six pages or less, covering no more than one title, the basic recordation fee is $5 if recorded before January 1, 1978, and $10 if recorded after December 31, 1977; in either case an additional charge of 50 cents is made for each page over six and each title over one. The statement referred to in paragraph (f)(1)(ii) of this section will be considered a part of the document for this purpose.

(3) The date of recordation is the date when all of the elements required for recordation, including the prescribed fee and, if required, the statement referred to in paragraph (f)(1)(ii) of this section, have been received in the Copyright Office. After recordation the document, including any accompanying statement, is returned to the sender with a certificate of record.

(4) Recordation of a notice of termination by the Copyright Office is without prejudice to any party claiming that the legal and formal requirements for issuing a valid notice have not been met.

(17 U.S.C. 207, and under the following sections of Title 17 of the United States Code as amended by Pub. L. 94-553: Sections 304 (c); 702; 708(11).)

Dated: September 7, 1977.

BARBARA RINGER,
Register of Copyrights.

Approved:

DONALD C. CURRAN,
Acting Librarian of Congress.

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